

CAMPBELL COUNTY CODE OF 1988

CHAPTER 14

LICENSES AND PERMITS

As to dog licenses, see Chapter 4 of this Code. As to County vehicle licenses, see §15-9 et seq. of this Code. As to licenses required for automobile graveyards and junkyards, §15-48 et seq. of this Code.

Editor's note.--Former Article II "Bingo and Raffles" (former §14-6 through 14-14.5) was deleted by the Board of Supervisors on March 17, 1997 due to the 1995 repeal of former VA. CODE ANN. §18.2-340.1 et seq. which had authorized counties to exercise extensive control over bingo games and raffles. Effective July 1, 1996, regulation of charitable gaming within the Commonwealth was reserved by the state and vested in the Virginia Department of Charitable Gaming in accordance with VA. CODE ANN. §18.2-340.15 et seq. Furthermore, pursuant to VA. CODE ANN. §15.2-912.2 (Repl. Vol. 2012), no local governing body may impose a gross receipts, entertainment, admission or any other tax based on revenues of qualified organizations derived from the conduct of charitable gaming.

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Article I. In General

Sec. 14-1. License requirement; requiring evidence of payment of business, personal property, meals and admissions taxes.

a. Whenever a license is required by this chapter and whenever the County Board of Supervisors shall impose a license fee or levy a license tax on any business, employment or profession, it shall be unlawful to engage in such business, employment or profession without first obtaining the required license.

b. No business license under this chapter shall be issued until the applicant has produced satisfactory evidence that all delinquent business license, real estate, personal property, meals, transient occupancy, severance and admissions taxes owed by the business to the County have been paid which have been properly assessed against the applicant by the County.

c. Any person who engages in a business without obtaining a required local license, or after being refused a license, shall not be relieved of the tax imposed by this chapter.

For state law authority, see VA. CODE ANN. §58.1-3700 (Repl. Vol. 2013). See also VA. CODE ANN. §58.1-3702 (Repl. Vol. 2013) and §58.1-3703 (Cum. Supp. 2016).

Editor's note: Former VA. CODE ANN. §58.1-3703 A., effective until July 1, 1998, authorized localities to charge a fee for issuing a license and to provide for the assessment and collection of license taxes on businesses, trades, professions, occupations and callings, etc., subject to prescribed limitations. **However, effective July 1, 1998, that section was amended to include the following proviso: ". . . provided such tax shall not be assessed and collected on any amount of gross receipts of each business upon which a license fee is charged."**

[THE MARCH 17, 1997 ACT adopted this section.]

[THE DECEMBER 4, 2012 AMENDMENT added "real estate" in subsection (b).]

Sec. 14-2. Definitions.

For the purposes of this chapter, unless otherwise required by the context:

"Business" means a course of dealing which requires the time, attention` and labor of the person so engaged for the purpose of earning a livelihood or profit. It implies a continuous and regular course of dealing, rather than an irregular or isolated transaction. A person may be engaged in more than one business. The following acts shall create a rebuttable presumption that a person is engaged in a business: (i) advertising or otherwise holding oneself out to the public as being engaged in a particular business or (ii) filing tax returns, schedules and documents that are required only of persons engaged in a trade or business.

"Definite place of business" means an office or a location at which occurs a regular and continuous course of dealing for thirty consecutive days or more. A definite place of business for a

person engaged in business may include a location leased or otherwise obtained from another person on a temporary or seasonal basis and real property leased to another. A person's residence shall be deemed to be a definite place of business if there is no definite place of business maintained elsewhere and the person is not subject to licensure as a peddler or itinerant merchant.

"Gross receipts" means the whole, entire, total receipts, without deduction, subject to exclusions set forth in VA. CODE ANN. §58.1-3732 (Repl. Vol. 2013).

For state law authority, see VA. CODE ANN. §58.1-3700.1 (Repl. Vol. 2013).

Cross reference.--See VA. CODE ANN. §58.1-3732.1 et seq. (Repl. Vol. 2013) for other state limitations on computation of gross receipts for license tax purposes.

[THE MARCH 17, 1997 ACT adopted this section.]

Sec. 14-3. Uniform ordinance provisions-License; due dates, penalties; situs of gross receipts; appeals; judicial review; rulings; record-keeping; audits; applicability of section.

A. The provisions of this section shall apply to every section of this chapter which imposes a license tax or license fee pursuant to VA. CODE ANN. §58.1-3700 et seq. (Repl. Vol. 2013 and Cum. Supp. 2016). As they apply to license taxes, the provisions required hereunder shall override any limitations or requirements in VA. CODE ANN. §58.1-3900 et seq. (Repl. Vol. 2013 and Cum. Supp. 2016) to the extent that they are in conflict.

1. License requirement. Every person shall apply for a license as required by this chapter when engaging in a business required to be licensed in this jurisdiction if (i) the person has a definite place of business in this jurisdiction; (ii) there is no definite place of business anywhere and the person resides in this jurisdiction; or (iii) there is no definite place of business in this jurisdiction but the person operates amusement machines or is classified as an itinerant merchant, peddler, carnival, circus, contractor subject to VA. CODE ANN. §58.1-3715, or public service corporation. A separate license shall be required for each definite place of business and for each business required to be licensed under this chapter. A person engaged in two or more businesses or professions required to be licensed under this chapter carried on at the same place of business may elect to obtain one license for all such businesses and professions if all of the following criteria are satisfied: (a) each business or profession is subject to licensure at the location and has satisfied any requirements imposed by state law or other provisions of the ordinances of the County; (b) all of the businesses or professions are subject to the same tax rate, or, if subject to different tax rates, the licensee agrees to be taxed on all businesses and professions at the highest rate; and (c) the taxpayer agrees to supply such information as the assessor may require concerning the nature of the several businesses and their gross receipts.

2. Due dates and penalties.

a. Each person subject to a license tax shall apply for a license prior to beginning business if he was not subject to licensure in Campbell County on or before January 1 of the license year, or no later than May 1 of the license year if he had been issued a license for the preceding year. The application shall be on forms prescribed by the assessing official.

b. The tax shall be paid with the application in the case of any license not based on the gross receipts. If the tax is measured by the gross receipts of the business, the tax shall be paid on or before May 1 or later date, including installment payment dates, or thirty (30) or more days after beginning business, at the County's option.

c. The assessing official may grant an extension of time in which to file an application for a license, for reasonable cause. The extension may be conditioned upon the timely payment of a reasonable estimate of the appropriate tax; the tax is then subject to adjustment to the correct tax at the end of the extension, together with interest from the due date until the date paid and, if the estimate submitted with the extension is found to be unreasonable under the circumstances, with a penalty of ten percent (10%) of the portion paid after the due date.

d. A penalty of ten percent (10%) of the tax may be imposed upon the failure to file an application or the failure to pay the tax by the appropriate due date. Only the late filing penalty shall be imposed by the assessing official if both the application and payment are late; however, both penalties may be assessed if the assessing official determines that the taxpayer has a history of noncompliance. In the case of an assessment of additional tax made by the assessing official, if the application and, if applicable, the return were made in good faith and the understatement of the tax was not due to any fraud, reckless or intentional disregard of the law by the taxpayer, there shall be no late payment penalty assessed with the additional tax. If any assessment of tax by the assessing official is not paid within thirty (30) days, the Treasurer or other collecting official may impose a ten percent (10%) late payment penalty. If the failure to file or pay was not the fault of the taxpayer, the penalties shall not be imposed, or if imposed, shall be abated by the official who assessed them. In order to demonstrate lack of fault, the taxpayer must show that he acted responsibly and that the failure was due to events beyond his control.

"Acted responsibly" means that: (i) the taxpayer exercised the level of reasonable care that a prudent person would exercise under the circumstances in determining the filing obligations for the business and (ii) the taxpayer undertook significant steps to avoid or mitigate the failure, such as requesting appropriate extensions (where applicable), attempting to prevent a foreseeable impediment, acting to remove an impediment once it occurred, and promptly rectifying a failure once the impediment was removed or the failure discovered.

"Events beyond the taxpayer's control" include, but are not limited to, the unavailability of records due to fire or other casualty; the unavoidable absence (e.g., due to death or serious illness) of the person with the sole responsibility for tax compliance; or the taxpayer's reasonable reliance in good faith upon erroneous written information from the assessing official who was aware of the relevant facts relating to the taxpayer's business when he provided the erroneous information.

e. Interest shall be charged on the late payment of the tax from the due date until the date paid without regard to fault or other reason for the late payment. Whenever an assessment of additional or omitted tax by the assessing official is found to be erroneous, all interest and penalty charged and collected on the amount of the assessment found to be erroneous shall be refunded together with interest on the refund from the date of payment or the due date, whichever is later. Interest shall be paid on the refund of any BPOL tax [Business, Professional, Occupation License tax] from the date of payment or due date, whichever is later, whether attributable to an amended

return or other reason. Interest on any refund shall be paid at the same rate charged under VA. CODE ANN. §58.1-3916 (Repl. Vol. 2013).

No interest shall accrue on an adjustment of estimated tax liability to actual liability at the conclusion of a base year. No interest shall be paid on a refund or charged on a late payment, provided the refund or the late payment is made not more than thirty (30) days from the date of the payment that created the refund or the due date of the tax, whichever is later.

3. Situs of gross receipts.

a. General rule. Whenever the tax imposed by this chapter is measured by gross receipts, the gross receipts included in the taxable measure shall be only those gross receipts attributed to the exercise of a privilege subject to licensure at a definite place of business within Campbell County. In the case of activities conducted outside of a definite place of business, such as during a visit to a customer location, the gross receipts shall be attributed to the definite place of business from which such activities are initiated, directed, or controlled. The situs of gross receipts for different classifications of business shall be attributed to one or more definite places of business or offices as follows:

(1) The gross receipts of a contractor shall be attributed to the definite place of business at which his services are performed, or if his services are not performed at any definite place of business, then the definite place of business from which his services are directed or controlled, unless the contractor is subject to the provisions of VA. CODE ANN. §58.1-3715;

(2) The gross receipts of a retailer or wholesaler shall be attributed to the definite place of business at which sales solicitation activities occur, or if sales solicitation activities do not occur at any definite place of business, then the definite place of business from which sales solicitation activities are directed or controlled; however, a wholesaler or distribution house subject to a license tax measured by purchases shall determine the situs of its purchases by the definite place of business at which or from which deliveries of the purchased goods, wares, and merchandise are made to customers. Any wholesaler who is subject to license tax in two or more localities and who is subject to multiple taxation because the localities use different measures, may apply to the Virginia Department of Taxation for a determination as to the proper measure of purchases and gross receipts subject to license tax in each locality;

(3) The gross receipts of a business renting tangible personal property shall be attributed to the definite place of business from which the tangible personal property is rented or, if the property is not rented from any definite place of business, then to the definite place of business at which the rental of such property is managed; and

(4) The gross receipts from the performance of services shall be attributed to the definite place of business at which the services are performed or, if not performed at any definite place of business, then to the definite place of business from which the services are directed or controlled.

b. Apportionment. If the licensee has more than one definite place of business and it is impractical or impossible to determine to which definite place of business gross receipts should be attributed under the general rule, the gross receipts of the business shall be apportioned between the

definite places of businesses on the basis of payroll. Gross receipts shall not be apportioned to a definite place of business unless some activities under the applicable general rule occurred at, or were controlled from, such definite place of business. Gross receipts attributable to a definite place of business in another jurisdiction shall not be attributed to this jurisdiction solely because the other jurisdiction does not impose a tax on the gross receipts attributable to the definite place of business in such other jurisdiction.

c. **Agreements.** The assessor may enter into agreements with any other political subdivision of Virginia concerning the manner in which gross receipts shall be apportioned among definite places of business. However, the sum of the gross receipts apportioned by the agreement shall not exceed the total gross receipts attributable to all of the definite places of business affected by the agreement. Upon being notified by a taxpayer that its method of attributing gross receipts is fundamentally inconsistent with the method of one or more political subdivisions in which the taxpayer is licensed to engage in business and that the difference has, or is likely to, result in taxes on more than 100 percent of its gross receipts from all locations in the affected jurisdictions, the assessor shall make a good faith effort to reach an apportionment agreement with the other political subdivisions involved. If an agreement cannot be reached, either the assessor or taxpayer may seek an advisory opinion from the Department of Taxation pursuant to VA. CODE ANN. §58.1-3701 (Repl. Vol. 2013); notice of the request shall be given to the other party. Notwithstanding the provisions of VA. CODE ANN. §58.1-3993 (Repl. Vol. 2013), when a taxpayer has demonstrated to a court that two or more political subdivisions of Virginia have assessed taxes on gross receipts that may create a double assessment within the meaning of VA. CODE ANN. §58.1-3986 (Repl. Vol. 2013), the Court shall enter such orders pending resolution of the litigation as may be necessary to ensure that the taxpayer is not required to pay multiple assessments even though it is not then known which assessment is correct and which is erroneous.

4. Limitations and Extensions.

a. Where, before the expiration of the time prescribed for the assessment of any license tax imposed pursuant to this chapter, both the assessing official and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

b. Notwithstanding VA. CODE ANN. §58.1-3903 (Repl. Vol. 2013), the assessing official shall assess the local license tax omitted because of fraud or failure to apply for a license for the current license year and the six preceding license years.

c. The period for collecting any local license tax shall not expire prior to the period specified in VA. CODE ANN. §58.1-3940 (Repl. Vol. 2013), two years after the date of assessment if the period for assessment has been extended pursuant to this subdivision, two years after the final determination of an appeal for which collection has been stayed pursuant to subdivision 5 d or 6 b of this subsection, or two years after the final decision in a court application pursuant to VA. CODE ANN. §58.1-3984 (Cum. Supp. 2016) or similar law for which collection has been stayed, whichever is later.

5. Administrative appeals to Commissioner of the Revenue or other assessing official.

a. Definitions. For purposes of this section:

“Amount in dispute,” when used with respect to taxes due or assessed, means the amount specifically identified in the administrative appeal or application for judicial review as disputed by the party filing such appeal or application.

“Appealable event” means an increase in the assessment of a local license tax payable by a taxpayer, the denial of a refund, or the assessment of a local license tax where none previously was assessed, arising out of the local assessing official’s (i) examination of records, financial statements, books of account, or other information for the purpose of determining the correctness of an assessment; (ii) determination regarding the rate or classification applicable to the licensable business; (iii) assessment of a local license tax when no return has been filed by the taxpayer; or (iv) denial of an application for correction of erroneous assessment attendant to the filing of an amended application for license.

An appealable event shall include a taxpayer’s appeal of the classification applicable to a business, including whether the business properly falls within a business license subclassification established by the County, regardless of whether the taxpayer’s appeal is in conjunction with an assessment, examination, audit, or any other action taken by the County.

“Frivolous” means a finding, based on specific facts, that the party asserting the appeal is unlikely to prevail upon the merits because the appeal is (i) not well grounded in fact; (ii) not warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; (iii) interposed for an improper purpose, such as to harass, to cause unnecessary delay in the payment of tax or a refund, or to create needless cost from the litigation; or (iv) otherwise frivolous.

“Jeopardized by delay” means a finding, based upon specific facts, that a taxpayer designs to (i) depart quickly from the locality; (ii) remove his property therefrom; (iii) conceal himself or his property therein; or (iv) do any other act tending to prejudice, or to render wholly or partially ineffectual, proceedings to collect the tax for the period in question.

b. Filing and contents of administrative appeal. Any person assessed with a local license tax as a result of an appealable event as defined in this section may file an administrative appeal of the assessment within one year from the last day of the tax year for which such assessment is made, or within one year from the date of the appealable event, whichever is later, with the Commissioner of the Revenue or other local assessing official. The appeal must be filed in good faith and sufficiently identify the taxpayer, the tax periods covered by the challenged assessments, the amount in dispute, the remedy sought, each alleged error in the assessment, the grounds upon which the taxpayer relies, and any other facts relevant to the taxpayer's contention. The assessor may hold a conference with the taxpayer if requested by the taxpayer, or require submission of additional information and documents, an audit or further audit, or other evidence deemed necessary for a proper and equitable determination of the appeal. The assessment placed in issue in the appeal shall be deemed prima facie correct. The assessor shall undertake a full review of the taxpayer's claims and issue a written determination to the taxpayer setting forth the facts and arguments in support of his decision.

The taxpayer may at any time also file an administrative appeal of the classification applicable to the taxpayer's business, including whether the business properly falls within a business license subclassification established by the County. However, the appeal of the classification of the business shall not apply to any license year for which the Tax Commissioner has previously issued a final determination relating to any license fee or license tax imposed upon the taxpayer's business for the year. In addition, any appeal of the classification of a business shall in no way affect or change any limitations period prescribed by law for appealing an assessment.

c. Notice of right of appeal and procedures. Every assessment made by a Commissioner of the Revenue or other assessing official pursuant to an appealable event shall include or be accompanied by a written explanation of the taxpayer's right to file an administrative appeal and the specific procedures to be followed in the County, the name and address to which the appeal should be directed, an explanation of the required content of the appeal, and the deadline for filing the appeal.

d. Suspension of collection activity during appeal. Provided a timely and complete administrative appeal is filed, collection activity with respect to the amount in dispute relating to any assessment by the Commissioner of Revenue or other assessing official shall be suspended until a final determination is issued by the Commissioner of the Revenue or other assessing official, unless the Treasurer or other official responsible for the collection of such tax (i) determines that collection would be jeopardized by delay as defined in this section; (ii) is advised by the Commissioner of the Revenue or other assessing official that the taxpayer has not responded to a request for relevant information after a reasonable time; or (iii) is advised by the Commissioner of the Revenue or other assessing official that the appeal is frivolous as defined in this section. Interest shall accrue in accordance with the provisions of subdivision 2 e of this subsection, but no further penalty shall be imposed while collection action is suspended.

e. Procedure in event of nondecision. Any taxpayer whose administrative appeal to the Commissioner of the Revenue or other assessing official pursuant to the provisions of subdivision 5 of this subsection has been pending for more than one year without the issuance of a final determination may, upon not less than thirty (30) days' written notice to the Commissioner of the Revenue or other assessing official, elect to treat the appeal as denied and appeal the assessment or classification of the taxpayer's business to the Tax Commissioner in accordance with the provisions of subdivision 6 of this subsection. The Tax Commissioner shall not consider an appeal filed pursuant to the provisions of this subsection if he finds that the absence of a final determination on the part of the Commissioner of the Revenue or other assessing official was caused by the willful failure or refusal of the taxpayer to provide information requested and reasonably needed by the Commissioner of the Revenue or other assessing official to make his determination.

6. Administrative appeal to the Tax Commissioner.

a. Any person assessed with a local license tax as a result of a determination, or that has received a determination with regard to the person's appeal of the license classification or subclassification applicable to the person's business, upon an administrative appeal to the Commissioner of the Revenue or other assessing official pursuant to subdivision 5 of this subsection, that is adverse to the position asserted by the taxpayer in such appeal may appeal such assessment to the Tax Commissioner within ninety (90) days of the date of the determination by the Commissioner of the Revenue or other assessing official. The appeal shall be in such form as the

Tax Commissioner may prescribe and the taxpayer shall serve a copy of the appeal upon the Commissioner of the Revenue or other assessing official. The State Tax Commissioner shall permit the Commissioner of the Revenue or other assessing official to participate in the proceedings and shall issue a determination to the taxpayer within ninety (90) days of receipt of the taxpayer's application, unless the taxpayer and the assessing official are notified that a longer period will be required. The appeal shall proceed in the same manner as an application pursuant to VA. CODE ANN. §58.1-1821 (Repl. Vol. 2013), and the State Tax Commissioner pursuant to VA. CODE ANN. §58.1-1822 (Repl. Vol. 2013) may issue an order correcting such assessment or correcting the license classification or subclassification of the business and the related license tax or fee liability.

b. Suspension of collection activity during appeal. On receipt of a notice of intent to file an appeal to the State Tax Commissioner under subdivision 6a of this subsection, collection activity with respect to the amount in dispute relating to any assessment by the Commissioner of Revenue or other assessing official shall be suspended until a final determination is issued by the State Tax Commissioner, unless the Treasurer or other official responsible for the collection of such tax (i) determines that collection would be jeopardized by delay as defined in this section; (ii) is advised by the Commissioner of the Revenue or other assessing official, or the Tax Commissioner, that the taxpayer has not responded to a request for relevant information after a reasonable time; or (iii) is advised by the Commissioner of the Revenue or other assessing official that the appeal is frivolous as defined in this section. Interest shall accrue in accordance with the provisions of subdivision 2 e of this subsection, but no further penalty shall be imposed while collection action is suspended. The requirement that collection activity be suspended shall cease unless an appeal pursuant to subdivision 6 a of this subsection is filed and served on the necessary parties within thirty (30) days of the service of notice of intent to file such appeal.

c. Implementation of determination by Tax Commissioner. Promptly upon receipt of the final determination of the Tax Commissioner with respect to an appeal pursuant to subdivision 6 a of this subsection, the Commissioner of the Revenue or other assessing official shall take those steps necessary to calculate the amount of tax owed by or refund due to the taxpayer consistent with the Tax Commissioner's determination and shall provide that information to the taxpayer and to the Treasurer or other official responsible for collection in accordance with the provisions of this subdivision.

(1) If the determination of the Tax Commissioner sets forth a specific amount of tax due, the Commissioner of the Revenue or other assessing official shall certify the amount to the Treasurer or other official responsible for collection, and the Treasurer or other official responsible for collection shall issue a bill to the taxpayer for such amount due, together with interest accrued and penalty, if any is authorized by this section, within thirty (30) days of the date of the determination of the Tax Commissioner.

(2) If the determination of the Tax Commissioner sets forth a specific amount of refund due, the Commissioner of the Revenue or other assessing official shall certify the amount to the Treasurer or other official responsible for collection, and Treasurer or other official responsible for collection shall issue a payment to the taxpayer for such amount due, together with interest accrued pursuant to this section, within thirty (30) days of the date of the determination of the Tax Commissioner.

(3) If the determination of the Tax Commissioner does not set forth a specific amount of tax due, or otherwise requires the Commissioner of the Revenue or other assessing official to undertake a new or revised assessment that will result in an obligation to pay a tax that has not previously been paid in full, the Commissioner of the Revenue or other assessing official shall promptly commence the steps necessary to undertake such new or revised assessment, and provide the same to the taxpayer within sixty (60) days of the date of the determination of the Tax Commissioner, or within sixty (60) days after receipt from the taxpayer of any additional information requested or reasonably required under the determination of the Tax Commissioner, whichever is later. The Commissioner of the Revenue or other assessing official shall certify the new assessment to the Treasurer or other official responsible for collection, and the Treasurer or other official responsible for collection shall issue a bill to the taxpayer for the amount due, together with interest accrued and penalty, if any is authorized by this section, within thirty (30) days of the date of the new assessment.

(4) If the determination of the Tax Commissioner does not set forth a specific amount of refund due, or otherwise requires the Commissioner of the Revenue or other assessing official to undertake a new or revised assessment that will result in an obligation on the part of Campbell County to make a refund of taxes previously paid, the Commissioner of the Revenue or other assessing official shall promptly commence the steps necessary to undertake such new or revised assessment or to determine the amount of refund due in the case of a correction to the license classification or subclassification of the business, and provide the same to the taxpayer within sixty (60) days of the date of the determination of the Tax Commissioner, or within sixty (60) days after receipt from the taxpayer of any additional information requested or reasonably required under the determination of the Tax Commissioner, whichever is later. The Commissioner of the Revenue or other assessing official shall certify the new assessment to the Treasurer or other official responsible for collection, and the Treasurer or other official responsible for collection shall issue a refund to the taxpayer for the amount of tax due, together with interest accrued, within thirty (30) days of the date of the new assessment.

7. Judicial review of determination of Tax Commissioner.

a. Judicial review. Following the issuance of a final determination of the Tax Commissioner pursuant to subdivision 6 a of this subsection, the taxpayer or Commissioner of the Revenue or other assessing official may apply to the appropriate circuit court for judicial review of the determination, or any part thereof, pursuant to VA. CODE ANN. §58.1-3984. In any such proceeding for judicial review of a determination of the Tax Commissioner, the burden shall be on the party challenging the determination of the Tax Commissioner, or any party thereof, to show that the ruling of the Tax Commissioner is erroneous with respect to the part challenged. Neither the Tax Commissioner nor the Department of Taxation shall be made a party to an application to correct an assessment merely because the Tax Commissioner has ruled on it.

b. Suspension of payment of disputed amount of tax due upon taxpayer's notice of intent to initiate judicial review.

(1) On receipt of a notice of intent to file an application for judicial review, pursuant to VA. CODE ANN. §58.1-3984, of a determination of the Tax Commissioner pursuant to subdivision 6 a of this subsection, and upon payment of the amount of the tax relating to any

assessment by the Commissioner of Revenue or other assessing official that is not in dispute together with any penalty and interest then due with respect to such undisputed portion of the tax, the Treasurer or other collection official shall further suspend collection activity while the court retains jurisdiction unless the court, upon appropriate motion after notice and an opportunity to be heard, determines that (i) the taxpayer's application for judicial review is frivolous, as defined in this section; (ii) collection would be jeopardized by delay, as defined in this section; or (iii) suspension of collection would cause substantial economic hardship to Campbell County. For purposes of determining whether substantial economic hardship to Campbell County would arise from a suspension of collection activity, the court shall consider the cumulative effect of then-pending appeals filed within Campbell County by different taxpayers that allege common claims or theories of relief.

(2) Upon a determination that the appeal is frivolous, that collection may be jeopardized by delay, or that suspension of collection would result in substantial economic hardship to Campbell County, the court may require the taxpayer to pay the amount in dispute or a portion thereof, or to provide surety for payment of the amount in dispute in a form acceptable to the court.

(3) No suspension of collection activity shall be required if the application for judicial review fails to identify with particularity the amount in dispute or the application does not relate to any assessment by the Commissioner of Revenue or other assessing official.

(4) The requirement that suspension activity be suspended shall cease unless an application for judicial review pursuant to VA. CODE ANN. §58.1-3984 is filed and served on the necessary parties within thirty (30) days of the service of the notice of intent to file such application.

(5) The suspension of collection activity authorized by this subdivision shall not be applicable to any appeal of a local license tax that is initiated by the direct filing of an action pursuant to VA. CODE ANN. §58.1-3984 without prior exhaustion of the appeals provided by subdivisions 5 and 6 of this subsection.

c. Suspension of payment of disputed amount of refund due upon Campbell County's notice of intent to initiate judicial review.

(1) Payment of any refund determined to be due pursuant to the determination of the Tax Commissioner of an appeal pursuant to subdivision 6 a of this subsection shall be suspended if Campbell County serves upon the taxpayer, within sixty (60) days of the date of the determination of the Tax Commissioner, a notice of intent to file an application for judicial review of the Tax Commissioner's determination pursuant to VA. CODE ANN. §58.1-3984 and pays the amount of the refund not in dispute, including tax and accrued interest. Payment of such refund shall remain suspended while the court retains jurisdiction unless the court, upon appropriate motion after notice and an opportunity to be heard, determines that Campbell County's application for judicial review is frivolous, as defined in this section.

(2) No suspension of refund activity shall be permitted if Campbell County's application for judicial review fails to identify with particularity the amount in dispute.

(3) The suspension of the obligation to make a refund shall cease unless an application for judicial review pursuant to VA. CODE ANN. §58.1-3984 is filed and served on the necessary parties within thirty (30) days of the service of the notice of intent to file such application.

d. Accrual of interest on unpaid amount of tax. Interest shall accrue in accordance with the provisions of subdivision 2 e of this subsection, but no further penalty shall be imposed while collection action is suspended.

8. Rulings.

Any taxpayer or authorized representative of a taxpayer may request a written ruling regarding the application of a local license tax to a specific situation from the Commissioner of the Revenue or other assessing official. Any person requesting such a ruling must provide all facts relevant to the situation placed at issue and may present a rationale for the basis of an interpretation of the law most favorable to the taxpayer. In addition, the taxpayer or authorized representative may request a written ruling with regard to the classification applicable to the taxpayer's business, including whether the business properly falls within a business license subclassification established by the County. Any misrepresentation or change in the applicable law or the factual situation as presented in the ruling request shall invalidate any such ruling issued. A written ruling may be revoked or amended prospectively if (i) there is a change in the law, a court decision, or the guidelines issued by the State Department of Taxation upon which the ruling was based or (ii) the assessor notifies the taxpayer of a change in the policy or interpretation upon which the ruling was based. However, any person who acts on a written ruling which later becomes invalid shall be deemed to have acted in good faith during the period in which such ruling was in effect.

9. Record-keeping and audits. Every person who is assessable with a local license tax shall keep sufficient records to enable the assessor to verify the correctness of the tax paid for the license years assessable and to enable the assessor to ascertain what is the correct amount of tax that was assessable for each of those years. All such records, books of accounts and other information shall be open to inspection and examination by the assessor in order to allow the assessor to establish whether a particular receipt is directly attributable to the taxable privilege exercised within this jurisdiction. The assessor shall provide the taxpayer with the option to conduct the audit in the taxpayer's local business office, if the records are maintained there. In the event the records are maintained outside Campbell County, copies of the appropriate books and records shall be sent to the assessor's office upon demand.

B. The provisions of this section relating to penalties, interest, and administrative and judicial review of an assessment shall be applicable to assessments made on and after January 1, 1997, even if for an earlier license year. The provisions relating to agreements extending the period for assessing tax shall be effective for agreements entered into on and after July 1, 1996. The provisions permitting an assessment of license tax for up to six preceding years in certain circumstances shall not be construed to permit the assessment of tax for a license year beginning before January 1, 1997.

C. **The provisions of this section are adopted by the County of Campbell pursuant to the state mandate set forth at VA. CODE ANN. §58.1-3703 A. (Cum. Supp. 2016) and VA. CODE**

ANN. §58.1-3703.1A. (Cum. Supp. 2016), and are hereby incorporated by reference as a part of ordinances in this chapter which impose a license fee or license tax.

For state law authority, see VA. CODE ANN. §58.1-3703 A. (Cum. Supp. 2016) and VA. CODE ANN. §58.1-3703.1 (Cum. Supp. 2016).

Editor's note.-- VA. CODE ANN. §58.1-3703.1 A. requires that "every ordinance levying a license tax...shall include provisions substantially similar to this subsection." [subsection A. of said §58.1-3703.1] The state mandate contained in the last sentence of subsection A. of VA. CODE ANN. §58.1-3703 extends such requirement to ordinances imposing license fees.

License year: VA. CODE ANN. §58.1-3703.1 B. requires that every locality adopt a fixed due date for license applications between March 1 and May 1, inclusive, no later than the 2007 license year. On December 4, 2006, the Board of Supervisors adopted May 1st as the fixed due date, effective with the 2007 license year. For license years 1998 through 2006, a March 1 due date had been in effect in Campbell County.

Cross-reference: For penalty for delinquent payment of County taxes, see §9-1.2 of this Code. As to interest on delinquent taxes, see VA. CODE ANN. §§58.1-3916 et seq. (Repl. Vol. 2013).

[THE MARCH 17, 1997 ACT adopted this section.]

[THE NOVEMBER 20, 2000 AMENDMENT, in subdivision A.1., inserted "operates amusement machines or" and "contractors subject to VA. CODE ANN. §58.1-3715, or public service corporation" in first sentence, and inserted "professions" in third sentence; in subdivision A.3.a., inserted language concerning situs of gross receipts for contractor, retailer or wholesaler, and business renting tangible personal property as items (1), (2), and (3) therein.]

[THE DECEMBER 2, 2002 AMENDMENT, in last sentence of subdivision A.1., redesignated clauses (i), (ii), and (iii) as clauses (a), (b), and (c); in subdivision A. 5. a., substituted "appealable event as defined in this section may apply . . . , whichever is later" for "audit may apply within ninety days from the date of such assessment" in first sentence, "the tax periods covered by the challenged assessments, the" for "audit period" in second sentence, "audit or further audit" for "further audit" in third sentence and "appealable event" for "audit" in last sentence; in subdivision A.5.c, substituted "a determination, upon an application for correction pursuant to subdivision 5 a, that is adverse to the position asserted by the taxpayer in such application" for "an audit" and deleted "on an application pursuant to subdivision 5 a" following "assessing official" in first sentence; and added new subdivisions A 5 f and A 5 g.]

[THE JUNE 5, 2006 AMENDMENT, in subsection A., substituted "5 d or 6 b of this subsection" for "5 b or 5 d of this section" in subdivision 4 c; rewrote the catchline for subdivision 5, inserted new subdivision 5 a, which includes definitions formerly located elsewhere in this subsection, redesignated former 5 a as present 5 b and 5 c and revised provisions therein, redesignated former 5 b as present 5 d, added new 5 e, redesignated former 5 c and 5 d as present 6 a and 6 b and rewrote the catchline and revised the

provisions therein, added new 6 c and 7, added subdivision 8 catchline and designation, redesignated former 5 e as present 8 and rewrote the first two sentences, deleted former 5 f (which provisions are now set forth at 5 a) and 5 g (similar provisions to which are now set forth at 5 e, except that pertinent period of nondecision has been changed from two years to one year), redesignated former subdivision 6 as present subdivision 9; updated citations and made minor stylistic changes throughout section.]

[THE DECEMBER 4, 2006 AMENDMENT substituted “May 1” for “March 1” in subdivision A.2.a. and in A.2.b.; and in the definition of “Jeopardized by delay” in subdivision A.5.a., substituted “Jeopardized” for “Jeopardize,” “based upon” for “based on,” and “designs” for “desires”; and inserted “therein” at the end of clause(iii).]

[THE DECEMBER 2, 2014 AMENDMENT added the second paragraph in definition of “Appealable event” in A.5.a, added “written” before “determination” and substituted “decision” for “position” in the last sentence of A.5.b, added the second paragraphs in A.5.b, inserted “relating to any assessment by the Commissioner of Revenue or other assessing official” in A.5.d, A.6.b and A.7.b.(1), inserted “or classification of the taxpayer’s business” in the first sentence in A.5.e, inserted “or that has received a determination with regard to the person’s appeal of the license classification or subclassification applicable to the person’s business” in the first sentence and “or correcting the license classification or subclassification of the business and the related license tax or fee liability” in the last sentence of A.6.a, inserted “or to determine the amount of refund due in the case of a correction to the license classification or subclassification of the business” in the first sentence of A.6.c.(4), inserted “or the application does not relate to any assessment by the Commissioner of the Revenue or other assessing official” in A.7.b.(3), and inserted the third sentence of A.8.]

Sec. 14-4. License tax or fee shall be uniform within same classification.

Whenever Campbell County levies a license tax or fee, the basis of such tax, whether it be gross receipts or otherwise, shall be the same for all persons engaged in the same business, trade, occupation or calling.

For state law authority, see VA. CODE ANN. §58.1-3705 (Repl. Vol. 2013).

[THE MARCH 17, 1997 ACT adopted this section.]

Sec. 14-5 to 14-7. Reserved.

Sec. 14-8. Exclusions and limitations on imposition of license tax or fee.

Campbell County shall not impose a license fee or levy any license tax on any of the businesses, trades, professions, occupations or callings enumerated in subsection C of VA. CODE ANN. §58.1-3703 (Cum. Supp. 2016), except as specifically permitted therein.

For state law authority, see VA. CODE ANN. §58.1-3703 (Cum. Supp. 2016).

[THE MARCH 17, 1997 ACT adopted this section.]

Sec. 14-9. Limitation on County license tax or fee within towns.

Any County license tax or fee imposed pursuant to this chapter shall not apply within the limits of any town located in Campbell County, where such town now, or hereafter, imposes a town license tax or fee on the same privilege. If the governing body of any town within the County, however, provides that a County license tax or fee shall apply within the limits of such town, then such license tax may be imposed within such town.

For state law authority, see VA. CODE ANN. §58.1-3711 (Repl. Vol. 2013).

[THE MARCH 17, 1997 ACT adopted this section.]

Article II. Fortune Telling and Palmistry.

For state law authority for this article, see VA. CODE ANN. §58.1-3702 (Repl. Vol. 2013), §58.1-3703 (Cum. Supp. 2016), §58.1-3706 (Cum. Supp. 2016) and §58.1-3726 (Repl. Vol. 2013).

Sec. 14-10. "Fortune-teller" defined.

For the purpose of license taxation pursuant to VA. CODE ANN. §58.1-3703 (Cum. Supp. 2016), any person who, for compensation, shall pretend to tell fortunes, assume to act as a clairvoyant, or to practice palmistry or phrenology within Campbell County shall be deemed a fortune-teller. (1982) (9-8-87)

For state law authority, see VA. CODE ANN. §58.1-3703 (Cum. Supp. 2016) and §58.1-3726 (Repl. Vol. 2013).

[THE MARCH 17, 1997 ACT incorporated provisions of former §14-15 and inserted "license taxation pursuant to VA. CODE ANN. §58.1-3703."]

Sec. 14-11. Incorporation of uniform ordinance; rules of construction.

(a) The provisions of the uniform ordinance set out at §14-3 of this Code are hereby incorporated herein by reference and made a part of this article.

(b) The specific provisions of this article and the applicable provisions of §14-3 of this Code shall be construed together to provide for the effective administration of the license tax authorized herein. In the event of conflict, the provisions of the uniform ordinance (§14-3 of this Code) shall control.

For state law authority, see VA. CODE ANN. §58.1-3703.1 (Cum. Supp. 2016).

Editor's note.-The license tax imposed upon fortune-tellers, etc. by this article is not a tax based upon gross receipts. The license tax is imposed pursuant to authority of VA. CODE ANN. §58.1-3703 A., the last paragraph in subsection A. of VA. CODE ANN. §58.1-3706, and VA. CODE ANN. §58.1-3726. The threshold limitations set forth in the first paragraph of VA. CODE ANN. §58.1-3706 A., such that no license tax could be levied by Campbell County "on any person whose gross receipts from a business, profession or occupation subject to licensure are less than . . . \$100,000," do not apply to the license tax imposed by this article; the provisions of the last paragraph of subsection A. of VA. CODE ANN. §58.1-3706 specifically exclude fortune-tellers from the rate limitation quoted above and further provide that license taxes on fortune-tellers shall be controlled by VA. CODE ANN. §58.1-3726. That section provides that a license tax on fortune-tellers shall not exceed \$1,000 per year. Therefore, the license tax imposed by this article is a flat tax on the privilege of engaging in a licensable activity and is unrelated to gross receipts. Accordingly, provisions of the uniform ordinance which deal with a license tax based on gross receipts should be disregarded when construing the uniform ordinance and this article together.

[THE MARCH 17, 1997 ACT adopted this section.]

Sec. 14-12. License required; due dates; application.

(a) No person shall engage in the activities of a fortune-teller as defined in §14-10 of this Code without first obtaining a license therefor from the Commissioner of the Revenue for the County and paying the annual license tax imposed by §14-13 of this Code.

(b) Each person subject to a license tax under this article shall apply for a license prior to beginning business if he was not subject to licensure in Campbell County on or before January 1 of the license year, or no later than May 1 of the license year if he had been issued a license for the preceding year. The license period shall extend for the entire calendar year and the annual license tax shall not be pro-rated for any part of the subject period.

(c) Application for a license shall be made to the Commissioner of the Revenue upon a form prescribed by him. (1987)(1988)

For state law authority, see VA. CODE ANN. §58.1-3703 (Cum. Supp. 2016), §58.1-3703.1 (Cum. Supp. 2016), and §58.1-3726 (Repl. Vol. 2013).

[THE MARCH 17, 1997 ACT incorporated provisions of former §14-15.1 of this Code and substituted "§14-10" for "§14-15" and "§14-13" for "§14-15.2" in (a), redesignated former (b) as present (c), redesignated former (c) as present (b) and rewrote the first sentence therein such that applicants for new license shall apply for same prior to beginning business and applicants for license renewal shall apply for same no later than March 1.]

[THE DECEMBER 4, 2006 AMENDMENT substituted “May 1” for “March 1” in (b).]

Sec. 14-13. License tax imposed.

(a) There is hereby imposed upon any person who shall engage in the activities of a fortune-teller, as defined in §14-10 of this Code, an annual license tax of five hundred dollars (\$500.00).

(b) The license tax shall be assessed and paid with the license application, and shall not be pro-rated for any fraction of any calendar year. (1987) (1988)

For state law authority, see VA. CODE ANN. §58.1-3703 (Cum. Supp. 2016) and §58.1-3703.1 (Cum. Supp. 2016), and §58.1-3726 (Repl. Vol. 2013).

[THE MARCH 17, 1997 ACT incorporated provisions of former §14-15.2 of this Code and substituted "with the license application" for "before the license required by §14-15.1 of this Code may be issued or renewed" in (b).]

Sec. 14-14. Late filing penalties.

A penalty of ten percent of the tax may be imposed upon the failure to file a license application or the failure to pay the license tax by the appropriate due date. Imposition of such penalties shall be in accordance with the provisions of §14-3 A.2.d. of this Code.

For state law authority, see VA. CODE ANN. §58.1-3703.1 (Cum. Supp. 2016). See also VA. CODE ANN. §58.1-3916 (Repl. Vol. 2013).

[THE MARCH 17, 1997 ACT adopted this section.]

Sec. 14-15. Criminal penalty for violation.

Any person who engages in business as a fortune-teller within the County without the license required shall be guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a fine of not more than \$500.00 for each offense. (9-8-87)

For state law authority, see VA. CODE ANN. §58.1-3703 (Cum. Supp. 2016) and §58.1-3726 (Repl. Vol. 2013). For penalty for misdemeanor, see VA. CODE ANN. §18.2-11 (Repl. Vol. 2014).

[THE MARCH 17, 1997 ACT incorporated provisions of former §14-15.3 of this Code and substituted "who engages in business as" for "who, for compensation, shall engage in the activities of" and "subject to a fine of not more than \$500.00" for "fined not less than \$50.00 nor more than \$500.00.”]

Article III. Carnivals and Circuses.

For state law as to authority of County to adopt this article, see VA. CODE ANN. §58.1-3703 (Cum. Supp. 2016), §58.1-3706 (Cum. Supp. 2016), and §58.1-3728 (Repl. Vol. 2013).

Sec. 14-16. Definitions.

For the purpose of license taxation pursuant to VA. CODE ANN. §58.1-3703 (Cum. Supp. 2016), the following definitions shall apply:

Carnival. “Carnival” shall mean an aggregation of shows, amusements, concessions, eating places and riding devices, or any of them, operated together on one lot or street or on contiguous lots or streets, moving from place to place, whether or not the same are owned and actually operated by separate persons, firms, or corporations. (6-17-63, §2.) (9-8-87)

Circus. “Circus” shall mean a public entertainment consisting typically of a variety of performances by acrobats, clowns, and trained animals; such term may include a traveling company that performs such entertainments, often under a tent.

Performance. A carnival or circus having performances, exhibitions, or presentations of an ongoing nature, conducted in one venue and staged, promoted or conducted by the same person(s) or entity(ies) shall be deemed to be presenting a single “performance” for purposes of imposition of the license tax under this article. A carnival or circus having a series of performances with distinct performance times or “shows” shall be deemed to be presenting multiple “performances” for purposes of imposition of the license tax under this article. For the purposes of this article, the enumeration of “each performance” shall be conclusively determined by referring to the number of special entertainment permits required and issued for such activity under §3-6 et seq. of this Code.

For state law basis, see VA. CODE ANN. §58.1-3728 (Repl. Vol. 2013).

[THE MARCH 17, 1997 ACT substituted "license taxation pursuant to VA. CODE ANN. §58.1-3703" for "this article."]

[THE JULY 6, 2004 AMENDMENT added “the following definitions shall apply” in the introductory paragraph, placed the definition of “Carnival” in a separate paragraph, and added the definitions of “Circus” and “Performance.”]

Sec. 14-17. Incorporation of uniform ordinance; rules of construction.

(a) The provisions of the uniform ordinance set out at §14-3 of this Code are hereby incorporated herein by reference and made a part of this article.

(b) The specific provisions of this article and the applicable provisions of §14-3 of this Code shall be construed together to provide for the effective administration of the license tax authorized herein. In the event of conflict, the provisions of the uniform ordinance (§14-3 of this Code) shall control.

For state law authority, see VA. CODE ANN. §58.1-3703.1 (Cum. Supp. 2016).

Editor's note.--The license tax imposed upon carnivals and circuses by this article is not a tax based upon gross receipts. The license tax is imposed pursuant to the authority of VA. CODE ANN. §58.1-3703 A., the last paragraph in VA. CODE ANN. §58.1-3706 A., and VA. CODE ANN. §58.1-3728. The threshold limitations set forth in the first paragraph of §58.1-3706 A., such that no license tax could be levied by Campbell County "on any person whose gross receipts from a business, profession or occupation subject to licensure are less than . . . \$100,000" do not apply to the license tax imposed by this article; the provisions of the last paragraph of §58.1-3706 A. specifically exclude carnivals, circuses, and speedways from the rate limitation quoted above and further provide that license taxes on carnivals, circuses, and speedways shall be controlled by VA. CODE ANN. §58.1-3728. That section provides that a license tax may be levied and collected on carnivals, circuses, and speedways "in an amount fixed by the governing body" of the County "upon each performance held in such county...given by or upon carnivals, circuses or speedways which are operating within the limits of such county..." Therefore, the license tax imposed by this article is a flat tax on the privilege of engaging in a licensable activity and is unrelated to gross receipts. Accordingly, provisions of the uniform ordinance which deal with a license tax based on gross receipts should be disregarded when construing the uniform ordinance and this article together.

[THE MARCH 17, 1997 ACT adopted this section.]

Sec. 14-18. License required; due prior to performance or exhibition; application.

(a) No person, firm, company or corporation shall operate a carnival or circus within the limits of Campbell County without first obtaining a license therefor from the Commissioner of the Revenue of the County and paying the license taxes imposed under this article. (9-8-87)

(b) Each person, firm, company or corporation subject to the license tax under this article shall apply for a license prior to any exhibition or performance of a carnival or circus within the County.

(c) Application for a license shall be made to the County Commissioner of Revenue upon a form prescribed by him and shall state the full name of the applicant; the permanent residence address of the applicant; whether the applicant is an individual, a firm, or a corporation; the name and permanent residence address of each member of the firm, if a firm be the applicant, and, if a corporation be the applicant, whether domestic or foreign, and, if foreign, the state of incorporation. Every application shall have attached thereto statements signed by the Sheriff and Health Officer of the County, or their duly authorized agents, that their respective departments have received notice of the dates which the carnival or circus will operate in this County and the proposed location thereof. (6-17-63, §4.)

(d) Presentation of a valid special entertainment permit issued under §3-6 et seq. of this Code shall be a prerequisite to issuance of the license under this article. However, requirements for

issuance of a special entertainment permit and requirements for licensure under this article may be satisfied concurrently by a combined application process.

For state law authority, see VA. CODE ANN. §58.1-3703 (Cum. Supp. 2016) and §58.1-3703.1 (Cum. Supp. 2016), §58.1-3728 (Repl. Vol. 2013) and §15.2-1200 (Repl. Vol. 2012).

[THE MARCH 17, 1997 ACT incorporated provisions of former §14-21 and §14-22 and inserted new (b).]

[THE JULY 6, 2004 AMENDMENT inserted “or circus” and added (d).]

Sec. 14-19. License tax imposed.

(a) There is hereby imposed upon any person, firm, company or corporation conducting or operating a carnival or circus within the limits of the County a license tax of one thousand dollars (\$1,000.00) for each performance within the County, which tax shall be assessed and paid with the license application. For the purposes of this article, the enumeration of “each performance” shall be conclusively determined by referring to the number of special entertainment permits required and issued for such activity under §3-6 et seq. of this Code.

(b) The license taxes provided for in this article shall be assessed and paid before any performance is permitted to be held.

(c) Until such tax has been paid, the County shall have a lien upon the property of such carnival or circus to the extent of the unpaid tax. (1982) (9-8-87)

For state law authority, see VA. CODE ANN. §58.1-3703.1 (Cum. Supp. 2016), §58.1-3703 (Cum. Supp. 2016), and §58.1-3728 (Repl. Vol. 2013).

Cross reference: For provisions regarding issuance of special entertainment permits, see §3-6 et seq. of this Code, with special attention to §3-8(f).

[THE MARCH 17, 1997 ACT incorporated former §14-23 of this Code, and added "which tax shall be assessed and paid with the license application" at end of (a).]

[THE JULY 6, 2004 AMENDMENT inserted “or circus” and added last sentence in (a).]

Sec. 14-20. Late filing penalties.

In addition to any other penalties provided in this article, a penalty of ten percent of the tax may be imposed upon the failure to file a license application or the failure to pay the license tax

with the license application. Imposition of such late filing/late payment penalties shall be in accordance with the provisions of §14-3A.2.d. of this Code.

For state law authority, see VA. CODE ANN. §58.1-3703.1 (Cum. Supp. 2016). See also VA. CODE ANN. §58.1-3916 (Repl. Vol. 2013).

[THE MARCH 17, 1997 ACT adopted this section.]

Sec. 14-21. Penalties for violations of article.

Every person, firm, company or corporation which exhibits or gives a performance or exhibition of any carnival or circus in Campbell County without the license hereinabove required shall be fined not less than \$50.00 nor more than \$500.00 for each offense. Each unlicensed performance or exhibition shall constitute a separate offense. (1987) (1991)

For state law authority, see VA. CODE ANN. §58.1-3728 (Repl. Vol. 2013).

[THE MARCH 17, 1997 ACT incorporated former §14-23.2 of this Code and deleted former (a) designation and added the second sentence therein, and deleted former (b) which had provided for a \$2,000 fine for violations.]

Sec. 14-22. Certain publishing or posting of advertisements unlawful; any signs subject to zoning ordinance.

(a) It shall be unlawful for any person, firm, company or corporation operating a carnival or circus to publish or post in any way, in Campbell County, at any time within fifteen days prior to the holding of any agricultural fair in Campbell County, advertising of the exhibition of any such carnival or circus. (11-15-82) (9-8-87)

(b) The posting or erection of any signs at any time in the County advertising the exhibition of a carnival or circus shall be subject to applicable requirements of the County Zoning ordinance.

For state law basis, see VA. CODE ANN. §58.1-3728 A. (Repl. Vol. 2013).

[THE MARCH 17, 1997 ACT incorporated former §14-23.1 of this Code, added the subsection designation "(a)," and added (b).]

[THE JULY 6, 2004 AMENDMENT inserted "or circus" throughout the section.]

Sec. 14-23. Carnivals or circuses inside grounds of agricultural fair exempt.

The provisions of this article shall not apply to carnivals or circuses inside the grounds of any agricultural fair held in Campbell County. (9-8-87)

For state law authority, see VA. CODE ANN. §58.1-3728 A. (Repl. Vol. 2013).

[THE MARCH 17, 1997 ACT adopted this section, substantially incorporating the provisions of former §14-23.3 of this Code.]

[THE JULY 6, 2004 AMENDMENT inserted “or circuses.”]

Sec. 14-24. Permitted exhibitions or performances; limitations.

(a) A resident mechanic or artist may exhibit any production of his own art or invention without compensation and no registration, bond or license may be required of any industrial arts exhibit or of any agricultural fair or the shows exhibited within the grounds of such fair or fairs, during the period of such fair, whether an admission be charged or not.

(b) In addition, no registration, bond or license may be required of resident persons performing in a show or exhibition for charity or other benevolent purposes, or of exhibitions of volunteer fire companies, whether an admission is charged or not. Whenever such show, exhibition or performance is given, whether licensed or exempted by the terms of this section, those persons performing or acting in a show, exhibition or performance and operating under either license or exemption, shall be exempt from such tax.

(c) (1) The provisions of subsections (a) and (b) of this section shall not be construed to allow, without payment of the tax imposed by the authority of §14-19 of this Code and VA. CODE ANN. §58.1-3728 (Repl. Vol. 2013), a performance for charitable or benevolent purposes by a company, association or persons, or a corporation, in the business of giving such exhibitions, no matter what terms of contract may be entered into or under what auspices such exhibition is given by such company, association, or persons, or corporation.

(2) It is the intent and meaning of this section that every company, association, person or corporation in the business of giving exhibitions for compensation, whether a part of the proceeds are for charitable or benevolent purposes or not, shall pay a tax imposed by the authority of §14-19 of this Code and VA. CODE ANN. §58.1-3728 (Repl. Vol. 2013).

(d) The license tax authorized under this article shall not be imposed on a bona fide local association or corporation organized for the principal purpose of holding legitimate agricultural exhibitions or industrial arts exhibits when they rent or lease fair or exhibition ground or buildings for the purpose of such exhibitions or performances and exhibit therein agricultural or industrial arts products as a part of such exhibition. (1982) (9-8-87) (1991)

For state law basis, see VA. CODE ANN. §58.1-3728 B. (Repl. Vol. 2013).

[THE MARCH 17, 1997 ACT incorporated former §14-23.4 of this Code.]

Article IV. Dealers of Precious Metals and Jewels.

For state law authority, see VA. CODE ANN. §54.1-4100 et seq. (Repl. Vol. 2013 and Cum. Supp. 2016). For state law authorizing locality to assess and levy license tax based on gross receipts of dealers of precious metals and jewels, see VA. CODE ANN. §§58.1-3717 C. (Repl. Vol. 2013) and 58.1-3706 (Cum. Supp. 2016).

Sec. 14-25. Definitions.

For the purposes of this article, the following definitions shall apply:

1. "Coin" means any piece of gold, silver or other metal fashioned into a prescribed shape, weight and degree of fineness, stamped by authority of a government with certain marks and devices, and having a certain fixed value as money.

2. "Dealer" means any person, firm, partnership, or corporation engaged in the business of (i) purchasing second hand precious metals or gems; (ii) removing in any manner previous metals or gems from manufactured articles not then owned by such person, firm, partnership, or corporation; or (iii) buying, acquiring, or selling precious metals or gems removed from such manufactured articles. "Dealer" shall mean all employees and principals on whose behalf a purchase is made, and any employee or agent who makes any such purchase for or on behalf of his employer or principal.

This definition shall not be construed so as to include persons engaged in the following:

(a) Purchases of precious metals or gems directly from other dealers, manufacturers, or wholesalers for retail or wholesale inventories, provided the selling dealer has complied with the provisions of this article.

(b) Purchases of precious metals or gems from a duly qualified fiduciary who is disposing of the assets of the estate being administered by such fiduciary in the administration of an estate.

(c) Acceptance by a retail merchant of trade-in merchandise previously sold by such retail merchant to the person presenting that merchandise for trade-in.

(d) Repairing, restoring or designing jewelry by a retail merchant, if such activities are within his normal course of business.

(e) Purchase of precious metals or gems by industrial refiners and manufacturers, insofar as such purchases are made directly from retail merchants, wholesalers, dealers, or by mail originating outside the Commonwealth of Virginia.

(f) Persons regularly engaged in the business of purchasing and processing nonprecious scrap metal which incidentally may contain traces of precious metals recoverable as a by-product.

3. "Gems" means any item containing precious or semiprecious stones customarily used in jewelry.

4. "Precious metals" means any item except coins composed in whole or in part of gold, silver, platinum or platinum alloys. (11-15-82) (9-8-87)

For state law basis, see VA. CODE ANN. §54.1-4100 (Repl. Vol. 2013).

[THE MARCH 17, 1997 ACT adopted this section, identical to former §14-25.]

Sec. 14-26. Reserved.

Editor's note.--The **application fee** imposed under §14-27 of this Code is a fee *specifically* authorized under VA. CODE ANN. §54.1-4108 (Cum. Supp. 2016) and is not a license fee or license tax imposed under the authority of VA. CODE ANN. §58.1-3703. Therefore, the uniform ordinance provisions set forth at §14-3 of this Code do not apply to this article. Any license fee or license tax *imposed under the authority of VA. CODE ANN. §58.1-3703, §58.1-3706, and/or §58.1-3717 C.* shall be subject to the uniform ordinance. (See §14-3 of this Code.)

Sec. 14-27. Permit required; application; application fee; criminal background check; approval of weighing devices; duration of permit; renewal; permanent location required.

(a) No person shall engage in the activities of a dealer as defined in §14-25 of this Code without first obtaining a permit from the Sheriff of Campbell County, which permit shall be issued by the Commissioner of the Revenue upon written instructions from the Sheriff to issue the same.

(b) To obtain a permit, the dealer shall file with the Sheriff an application form which shall include the dealer's full name, any aliases, address, age, date of birth, sex, and fingerprints; the name, address, and telephone number of the applicant's employer, if any; and the location of the dealer's place of business. Upon filing this application and the payment of a \$200.00 application fee, the dealer shall be issued a permit by the Commissioner of the Revenue upon the written direction of the Sheriff, provided that the applicant has not been convicted of a felony or a crime of moral turpitude within seven (7) years prior to the date of application. The permit shall be denied if the applicant has been denied a permit or has had a permit revoked under any ordinance similar in substance to the provisions of this article.

(c) Before a permit may be issued, the dealer must have all weighing devices in his business inspected and approved by State Weights and Measures officials and present written evidence of such approval to the Sheriff.

(d) This permit shall be valid for one (1) year from the date issued and may be renewed in the same manner as such permit was initially obtained with an annual permit fee of \$200.00. No permit shall be transferable.

(e) If the business of the dealer is not operated without interruption, with Saturdays, Sundays, and recognized holidays excepted, the dealer shall notify the Sheriff of all closings and reopenings of such business. The business of a dealer shall be conducted only from the fixed and permanent location specified in his application for a permit.

(f) The Sheriff may waive the permit fee for retail merchants that are not required to be licensed as pawnbrokers under this Chapter, provided the retail merchant has a permanent place of business and purchase of precious metals and gems do not exceed five percent of the retail merchant's annual business.

For state law basis, see VA. CODE ANN. §54.1-4108 (Cum. Supp. 2016).

[THE MARCH 17, 1997 ACT adopted this section, identical to former §14-33.]

[THE DECEMBER 2, 2014 AMENDMENT added subsection (f).]

Sec. 14-28. Bond or letter of credit required of dealers when permit obtained.

(a) Every dealer shall secure a permit as required in §14-27 of this article, and each dealer at the time of obtaining such permit shall enter into a recognizance to the County of Campbell secured by a corporate surety authorized to do business in the Commonwealth of Virginia, in the penal sum of \$10,000.00 conditioned upon due observance of the terms of this article. In lieu of a bond, a dealer may cause to be issued by a bank authorized to do business in the Commonwealth of Virginia a letter of credit in favor of the County of Campbell in the sum of \$10,000.00.

(b) A single bond upon an employer or principal may be written or a single letter of credit issued to cover all employees and all transactions occurring at a single location. (11-15-82) (9-8-87)

For state law authority, see VA. CODE ANN. §54.1-4111 and §54.1-4106 (Repl. Vol. 2013).

[THE MARCH 17, 1997 ACT incorporated provisions of former §14-31 of this Code.]

Sec. 14-29. Private action on bond or letter of credit.

If any person shall be aggrieved by the misconduct of any dealer who has violated the provisions of this article, he may maintain an action for recovery in any court of proper jurisdiction

against such dealer and his surety, provided that recovery against the surety shall be only for that amount of the judgment, if any, which is unsatisfied by the dealer. (11-15-82) (9-8-87) (1988)

For state law authority, see VA. CODE ANN. §54.1-4111 and §54.1-4107 (Repl. Vol. 2013).

[THE MARCH 17, 1997 ACT adopted this section, identical to former §14-32.]

Secs. 14-30 to 14-32. Reserved.

Sec. 14-33. Records to be kept; copy furnished to Sheriff; inspection of records.

(a) Every dealer shall keep at his place of business an accurate and legible record of each purchase of precious metals or gems. The record of each such purchase shall be retained by the dealer for at least twenty-four (24) months. The records shall set forth the following:

(1) A complete description of all precious metals or gems purchased from each seller. The description shall include all names, initials, serial numbers or other identifying marks or monograms on each item purchased, the true weight or carat of any gem, and the price paid for each item;

(2) The date, time, and place of receiving the items purchased;

(3) The full name, residence address, work place, home and work telephone numbers, date of birth, sex, race, height, weight, hair and eye color, and other identifying marks of the person selling the precious metals or gems;

(4) Verification of the identification of the seller by the exhibition of a government-issued identification card bearing a photograph of the person selling the precious metals or gems, such as a driver's license or military identification card. The record shall contain the type of identification exhibited, the issuing agency, and the number thereon;

(5) A statement of ownership from the seller; and

(6) A digital image of the form of identification used by the person involved in the transaction.

(b) The information required by subdivisions (1) through (3) of subsection (a) shall appear on each bill of sale for all precious metals and gems purchased by a dealer, and a copy shall be mailed or delivered within twenty-four (24) hours of the time of purchase to the Sheriff of Campbell County. (11-15-82) (9-8-87) (1990) (1991)

For state law authority, see VA. CODE ANN. §54.1-4111 and §54.1-4101 (Repl. Vol. 2013).

Cross-reference.--For format of required statement of ownership, see §14-36 of this Code.

[THE MARCH 17, 1997 ACT incorporated provisions of former §14-26 of this Code.]

[THE DECEMBER 3, 2013 AMENDMENT substituted “person selling the precious metals or gems” at the end of (a)(3); added “bearing a photograph of the person selling the precious metals or gems” in (a)(4); and added (a)(6).]

Sec. 14-34. Law-enforcement officers may examine records or certain articles listed in a record during regular business hours; warrantless search and seizure of missing or stolen articles authorized.

Every dealer or his employee shall admit to his place of business during regular business hours the Sheriff of Campbell County or his designee or any law-enforcement officer of the state or federal government. The dealer or his employee shall permit the officer to (i) examine all records required by this article or by Chapter 41, Subtitle V, Title 54.1 of the Code of Virginia (Repl. Vol. 2013), and any article listed in a record which is believed by the officer to be missing or stolen and (ii) search for and take into possession any article known to him to be missing or known or believed by him to have been stolen. (1982) (1994)

For state law authority, see VA. CODE ANN. §54.1-4101.1 and §54.1-4111 (Repl. Vol. 2013).

[THE MARCH 17, 1997 ACT incorporated provisions of former §14-26.1 of this Code.]

Sec. 14-35. Credentials and statement of ownership required from seller.

No dealer shall purchase precious metals or gems without first (i) ascertaining the identity of the seller by requiring an identification issued by a governmental agency with a photograph of the seller thereon, and at least one other corroborating means of identification, and (ii) obtaining a statement of ownership from the seller. (11-15-82) (9-8-87)

For state law authority, see VA. CODE ANN. §54.1-4111 and §54.1-4102 (Repl. Vol. 2013).

[THE MARCH 17, 1997 ACT incorporated provisions of former §14-27 of this Code.]

Sec. 14-36. Contents of required statement of ownership.

The statement of ownership required by §14-33(a)(5) and §14-35 of this Code shall contain a complete description of the precious metal or gem, including any identifying marks thereon and true weight or carat of any gem, the full name, residence address, work place, home and work telephone numbers, date of birth, sex, height, weight, hair and eye color, and other identifying marks of the seller/owner, and such information shall be attached to the following statement which shall be signed by each owner of an item to be sold and which statement shall be duly notarized:

STATE OF VIRGINIA,

to-wit:

COUNTY OF CAMPBELL.

On this _____ day of _____, 20____, before me personally appeared, _____, of _____, _____, owner of the hereinafter described property, to me personally known, who, being duly sworn on his oath, did say and state the following:

1. He is the sole and legal owner of _____, which precious metal or gem has the following identifying marks or characteristics: _____.

2. He acquired the precious metal or gem from _____, at a price of \$ _____ or by gift, and believes the fair market value of the item to be \$ _____.

3. The sale of the above-described precious metal or gem is made with the free consent and with the desire of the undersigned owner.

WITNESS the following signature and seal this ____ day of _____, 20__.

Owner

Executed, subscribed and sworn to before me in my said County and state above written, on the day and year above written.

Notary Public

My commission expires: _____.

For state law authorizing County to determine contents of statement of ownership, see VA. CODE ANN. §54.1-4102 (Repl. Vol. 2013).

[THE MARCH 17, 1997 ACT incorporated former §14-27.1 of this Code, and corrected citations in the introductory paragraph.]

Sec. 14-37. Prohibited purchases.

(a) No dealer shall purchase precious metals or gems from any seller who is under the age of eighteen.

(b) No dealer shall purchase precious metals or gems from any seller who the dealer believes or has reason to believe is not the owner of such items, unless the seller has written and duly authenticated authorization from the owner permitting and directing such sale. (11-15-82)

For state law authority, see VA. CODE ANN. §54.1-4111 and §54.1-4103 (Repl. Vol. 2013).

[THE MARCH 17, 1997 ACT incorporated provisions of former §14-28 of this Code.]

Sec. 14-38. Dealer to retain purchases for minimum prescribed period.

(a) The dealer shall retain all precious metals or gems purchased for a minimum of fifteen (15) calendar days from the date on which a copy of the bill of sale is received by the Sheriff of Campbell County. Until the expiration of this period, the dealer shall not sell, alter, or dispose of a purchased item in whole or in part, or remove it from the County of Campbell.

(b) If the dealer performs the service of removing precious metals or gems, he shall retain the metal or gems removed and the article from which the removal was made for a period of fifteen (15) calendar days after receiving such article and precious metals or gems. (11-15-82)

For state law authority, see VA. CODE ANN. §54.1-4111 (Repl. Vol. 2013) and VA. CODE ANN. §54.1-4104 (Repl. Vol. 2013).

[THE MARCH 17, 1997 ACT incorporated the provisions of former §14-29.]

[THE DECEMBER 4, 2012 AMENDMENT substituted “fifteen (15)” for “ten (10)” in both (a) and (b).]

Sec. 14-39. Record of disposition to be retained for at least twenty-four (24) months.

Each dealer shall keep and maintain for at least twenty-four (24) months an accurate and legible record of the name and address of the person, firm, or corporation to which he sells any precious metal or gem in its original form after the waiting period required by the preceding section. This record shall also show the name and address of the seller from whom the dealer purchased such item.(11-15-82)

For state law authority, see VA. CODE ANN. §54.1-4111 and §54.1-4105 (Repl. Vol. 2013).

[THE MARCH 17, 1997 ACT incorporated provisions of former §14-30 of this Code.]

Sec. 14-40. Exemptions from article.

(a) The Sheriff, or the Commissioner of the Revenue upon written instructions from the Sheriff, may waive by written notice implementation of any one or more of the provisions of this article, except §14-37 of this Code, for particular numismatic, gem, or antique exhibitions or craft shows sponsored by nonprofit organizations, provided that the purpose of the exhibitions is

nonprofit in nature, notwithstanding the fact that there may be casual purchases and trades made at such exhibitions. (11-15-82) (9-8-87) (1988)

(b) No provision of this article shall apply to the sale or purchase of coins. (11-15-82)

(c) No provision of this article shall apply to any bank, branch thereof, trust company or bank holding company, or any wholly owned subsidiary thereof, engaged in buying and selling gold and silver bullion. (9-8-87)

For state law authority, see VA. CODE ANN. §54.1-4111 and §54.1-4109 (Repl. Vol. 2013).

[THE MARCH 17, 1997 ACT incorporated provisions of former §14-34, §14-36, and §14-40 of this Code and substituted "§14-37" for "§14-28" in (a).]

Sec. 14-41. Penalties; first and subsequent offenses.

(a) Any person convicted of violating any of the provisions of this article shall be guilty of a Class 2 misdemeanor for the first offense, and upon conviction thereof shall be punished by confinement in jail for not more than six months and a fine of not more than \$1,000.00, either or both. Upon conviction of any subsequent offense he shall be guilty of a Class 1 misdemeanor and upon conviction thereof shall be punished by confinement in jail for not more than twelve months and a fine of not more than \$2,500.00, either or both.

(b) Upon the first conviction of a dealer for violation of any provision of this article or of VA. CODE ANN. §54.1-4100 et seq. (Repl. Vol. 2013 and Cum. Supp. 2016), the Sheriff may revoke his permit to engage in business as a dealer under this article for a period of one (1) full year from the date the conviction becomes final. Such revocation shall be mandatory for two full years from the date the conviction becomes final upon a second conviction. (11-15-82) (9-8-87) (1988) (1990)

For state law authority, see VA. CODE ANN. §54.1-4111 and §54.1-4110 (Repl. Vol. 2013). See also VA. CODE ANN. §18.2-11 (Repl. Vol. 2014).

[THE MARCH 17, 1997 ACT incorporated provisions of former §14-35 of this Code, and inserted "Class 2" in first sentence in (a) and "Class 1" in second sentence thereof; and, in first sentence in (b), deleted "by any Court" following "Upon the first conviction" and inserted "or of VA. CODE ANN. §54.1-4100 et seq. (Repl. Vol. 1994)."]

[THE DECEMBER 6, 2010 AMENDMENT inserted "for two full years from the date the conviction becomes final upon" into the second sentence of subsection (b).]

Sec. 14-42. Severability.

Should any section or provision or portion thereof of this ordinance be declared by final order of a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of any other section or provision of this ordinance. (11-15-82)

[THE MARCH 17, 1997 ACT incorporated provisions of former §14-42 of this Code.]

Article IVA. Pawnbrokers.

For state law authority, see VA. CODE ANN. §54.1-4000 et seq. (Repl. Vol. 2013).

Sec. 14-42.1. Definitions.

“Pawnbroker” means any person who lends or advances money or other things for profit on the pledge and possession of tangible personal property, or other valuable things, other than securities or written or printed evidences of indebtedness or title, or who deals in the purchasing of personal property or other valuable things on condition of selling the same back to the seller at a stipulated price.

For state law basis, see VA. CODE ANN. §54.1-4000 (Repl. Vol. 2013).

[THE OCTOBER 7, 2014 ACT adopted this section.]

Sec. 14-42.2. License required; license authorized by court; building designated in license; penalty.

(a) No person shall engage in the business of a pawnbroker without having a valid license issued by the County, which license shall be issued by the Commissioner of the Revenue.

(b) The Campbell County Circuit Court may authorize the County to issue to any individual, who has not been convicted of a felony or a crime involving moral turpitude in the last ten years, a license to engage in the business of a pawnbroker in the County. No such license shall be issued by the County except with such authority. Prior to the issuance of any license, the applicant shall furnish his date of birth, a sworn statement or affirmation disclosing any criminal convictions or any pending criminal charges, whether within or without the Commonwealth, and such other information to the County as may be required. The license shall designate the building in which the licensee shall carry on such business.

(c) No person shall engage in the business of a pawnbroker in any location other than the one designated in his license, except with consent of the Campbell County Circuit Court.

(d) Any person who violates the provisions of this section shall be guilty of a Class 1 misdemeanor. Each day’s violation shall constitute a separate offense.

For state law basis, see VA. CODE ANN. §54.1-4001 (Repl. Vol. 2013).

[THE OCTOBER 7, 2014 ACT adopted this section.]

Sec. 14-42.3. Bond required; private action on bond.

(a) No person shall be licensed as a pawnbroker or engage in the business of a pawnbroker without having in existence a bond with surety in the minimum amount of \$50,000 to secure the payment of any judgment recovered under the provisions of subsection (b).

(b) Any person who recovers a judgment against a licensed pawnbroker for the pawnbroker's misconduct may maintain an action in his own name upon the bond of the pawnbroker if the execution issued upon such judgment is wholly or partially unsatisfied.

For state law authority, see VA. CODE ANN. §54.1-4003 (Repl. Vol. 2013).

[THE OCTOBER 7, 2014 ACT adopted this section.]

Sec. 14-42.4. Memorandum to be given pledger; fee; lost ticket charge.

Every pawnbroker shall at the time of each loan deliver to the person pawning or pledging anything, a memorandum or note, signed by him, containing the information required by Section 14-42.7. A lost-ticket fee of five dollars may be charged, provided that the pawner is notified of the fee on the ticket.

For state law authority, see VA. CODE ANN. §54.1-4004 (Repl. Vol. 2013).

[THE OCTOBER 7, 2014 ACT adopted this section.]

Sec. 14-42.5. Sale of goods pawned.

No pawnbroker shall sell any pawn or pledge item until (i) it has been in his possession for the minimum term set forth in the memorandum, but not less than 30 days, plus a grace period of 15 days and (ii) a statement of ownership is obtained from the pawner. If a motor vehicle is pawned, the owner of the motor vehicle shall comply with the requirements of VA. CODE ANN. §46.2-637. In the event of default by the pawner, the pawnbroker shall comply with the requirements of VA. CODE ANN. §46.2-633. Otherwise, the pawnbroker shall comply with the requirements of VA. CODE ANN. §46.2-636 et seq. All sales of items pursuant to this section may be made by the pawnbroker in the ordinary course of his business.

For state law authority, see VA. CODE ANN. §54.1-4005 (Repl. Vol. 2013).

[THE OCTOBER 7, 2014 ACT adopted this section.]

Sec. 14-42.6. Interest chargeable.

(a) No pawnbroker shall ask, demand or receive a greater rate of interest than ten percent per month on a loan of \$25 or less, or seven percent per month on a loan of more than \$25 and less than \$100, or five percent per month on a loan of \$100 or more, secured by a pledge of tangible personal property. No loan shall be divided for the purpose of increasing the percentage to be paid the pawnbroker. Loans may be renewed based on the original loan amount. Loans may not be issued that compound the interest or storage fees from previous loans on the same item.

(b) An annual percentage rate computed and disclosed under the provisions of the federal Truth-in-Lending Act shall not be deemed a violation of this section.

For state law authority, see VA. CODE ANN. §54.1-4008 (Repl. Vol. 2013).

[THE OCTOBER 7, 2014 ACT adopted this section.]

Sec. 14-42.7. Records to be kept; credentials of person pawning goods; fee; penalty.

(a) Every pawnbroker shall keep at his place of business an accurate and legible record of each loan or transaction in the course of his business, including transactions in which secondhand goods, wares, or merchandise is purchased for resale. The account shall be recorded at the time of the loan or transaction and shall include:

1. A description, serial number, and a statement of ownership of the goods, article, or thing pawned or pledged or received on account of money loaned thereon or purchased for resale;
2. The time, date, and place of the transaction;
3. The amount of money loaned thereon at the time of pledging the same or paid as the purchase price;
4. The rate of interest to be paid on such loan;
5. The fees charged by the pawnbroker, itemizing each fee charged;
6. The full name, residence address, telephone number, and driver's license number or other form of identification of the person pawning or pledging or selling the goods, article, or thing, together with a particular description, including the height, weight, date of birth, race, gender, hair and eye color, and any other identifying marks, of such person;
7. Verification of the identification by the exhibition of a government-issued identification card bearing a photograph of the person pawning, pledging, or selling the goods, article, or thing, such as a driver's license or military identification card. The record shall contain the type of identification exhibited, the issuing agency, and the number thereon;

8. A digital image of the form of identification used by the person involved in the transaction;

9. As to loans, the terms and conditions of the loan, including the period for which any such loan may be made; and

10. All other facts and circumstances respecting such loan or purchase.

(b) A pawnbroker may maintain at his place of business an electronic record of each transaction involving goods, articles, or things pawned or pledged or purchased. If maintained electronically, a pawnbroker shall retain the electronic records for at least one year after the date of the transaction and make such electronic records available to any duly authorized law-enforcement officer upon request.

(c) For each loan or transaction, a pawnbroker may charge a service fee for making the daily electronic reports to the appropriate law-enforcement officers required by § 54.1-4010, creating and maintaining the electronic records required under this section, and investigating the legal title to property being pawned or pledged or purchased. Such fee shall not exceed five percent of the amount loaned on such item or paid by the pawnbroker for such item or \$3, whichever is less. Any person, firm, or corporation violating any of the provisions of this section is guilty of a Class 4 misdemeanor.

(d) No goods, article, or thing shall be pawned or pledged or received on account of money loaned or purchased for resale if the original serial number affixed to the goods, article, or thing has been removed, defaced, or altered.

(e) The Superintendent of State Police shall promulgate regulations specifying the nature of the particular description for the purposes of subdivision A 6.

The Superintendent of State Police shall promulgate regulations specifying the nature of identifying credentials of the person pawning, pledging, or selling the goods, article, or thing. Such credentials shall be examined by the pawnbroker, and an appropriate record retained thereof.

For state law authority, see VA. CODE ANN. §54.1-4009 (Repl. Vol. 2013).

[THE OCTOBER 7, 2014 ACT adopted this section.]

Sec. 14-42.8. Daily reports.

(a) Every pawnbroker shall prepare a daily report of all goods, articles, or things pawned or pledged with him or sold to him that day and shall file such report by noon of the following day with the Sheriff of Campbell County. The report shall include the pledgor's or seller's name, residence, and driver's license number or other form of identification; a photograph or digital image of the form of identification used by the pledgor or seller; and a description of the goods, articles, or other things pledged or sold and, unless maintained in electronic format, shall be in writing and clearly legible to any person inspecting it. A pawnbroker may compile and maintain the daily report in an electronic format and, if so maintained, shall file the required daily reports electronically with the Sheriff through use of a disk, electronic transmission, or any other electronic means of reporting approved by the Sheriff.

(b) The Department of State Police shall adopt regulations for the uniform reporting of information required by this section.

(c) Any person, firm, or corporation violating any of the provisions of this section is guilty of a Class 4 misdemeanor.

For state law authority, see VA. CODE ANN. §54.1-4010 (Repl. Vol. 2013).

[THE OCTOBER 7, 2014 ACT adopted this section.]

Sec. 14-42.9. Officers may examine records or property; warrantless search and seizure authorized.

Every pawnbroker and every employee of the pawnbroker shall admit to the pawnbroker's place of business during regular business hours, any duly authorized law-enforcement officer of the County, or any law-enforcement official of the state or federal government. The pawnbroker or employee shall permit the officer to (i) examine all records required by this Article and any article listed in a record which is believed by the officer to be missing or stolen and (ii) search for and take into possession any article known to him to be missing, or known or believed by him to have been stolen. However, the officer shall not take possession of any article without providing to the pawnbroker a receipt.

For state law authority, see VA. CODE ANN. §54.1-4011 (Repl. Vol. 2013).

[THE OCTOBER 7, 2014 ACT adopted this section.]

Sec. 14-42.10. Property pawned or purchased not to be disfigured or changed.

No property received on deposit or pledged or purchased by any pawnbroker shall be disfigured or its identity destroyed or affected in any manner (i) so long as it continues in pawn or in

the possession of the pawnbroker while in pawn or (ii) in an effort to obtain a serial number or other information for identification purposes.

For state law authority, see VA. CODE ANN. §54.1-4012 (Repl. Vol. 2013).

[THE OCTOBER 7, 2014 ACT adopted this section.]

Sec. 14-42.11. Care of tangible personal property; evaluation fee.

(a) Pawnbrokers shall store, care for and protect all of the tangible personal property in the pawnbroker's possession and protect the property from damage or misuse. Nothing in this chapter shall be construed to mean that pawnbrokers are insurers of pawned property in their possession.

(b) A pawnbroker may charge a monthly storage fee for any items requiring storage, which fee shall not exceed five percent of the amount loaned on such item.

For state law authority, see VA. CODE ANN. §54.1-4013 (Repl. Vol. 2013).

[THE OCTOBER 7, 2014 ACT adopted this section.]

Sec. 14-42.12. Penalties; violation of the Virginia Consumer Protection Act.

(a) Except as otherwise provided in Section 14-42.2 of this Article, any licensed pawnbroker who violates any of the provisions of this Article shall be guilty of a Class 4 misdemeanor. In addition, the court may revoke or suspend the pawnbroker's license for second and subsequent offenses.

(b) Additionally, any violation of the provisions of this Article shall constitute a prohibited practice in accordance with VA. CODE ANN. §59.1-200 and shall be subject to any and all of the enforcement provisions of the Virginia Consumer Protection Act.

For state law authority, see VA. CODE ANN. §54.1-4014 (Repl. Vol. 2013).

[THE OCTOBER 7, 2014 ACT adopted this section.]

Article V. Peddlers and Itinerant Merchants.

As to authority of localities to levy license tax on certain direct sellers, see VA. CODE ANN. §58.1-3719.1 (Repl. Vol. 2013). As to authority of localities to regulate and license certain charitable and religious solicitations, see VA. CODE ANN. §57-63 (Repl. Vol. 2012). As to state law regarding home solicitation sales, see VA. CODE ANN. §59.1-21.1 et seq. (Repl. Vol. 2014).

Editor's note.--Peddlers and itinerant merchants were previously regulated under former Chapter 19 of this Code, which provisions have been revised and redesignated as a part of this chapter.

Sec. 14-43. "Peddler" and "itinerant merchant" defined.

(a) *For the purpose of license taxation pursuant to VA. CODE ANN. §58.1-3703 (Cum. Supp. 2016), any person who shall carry from place to place any goods, wares or merchandise and offer to sell or barter the same, or actually sell or barter the same, shall be deemed to be a peddler.*

(b) *For the purpose of license taxation pursuant to VA. CODE ANN. §58.1-3703 (Cum. Supp. 2016), the term "itinerant merchant" means any person who engages in, does, or transacts any temporary or transient business in any county, city or town, and who, for the purpose of carrying on such business, occupies any location for a period of less than one year. The location of said business activity must be in compliance with all county and state laws pertaining thereto.*

(c) Such activities as are described in subsections (a) and/or (b) hereof shall be exempted from the requirements of this article when they are conducted on behalf of a nonprofit charitable, civic, or religious organization, and where the proceeds derived from such activities are to be used primarily for nonprofit charitable, community service or religious purposes.

For state law authority, see VA. CODE ANN. §58.1-3703 (Cum. Supp. 2016) and §58.1-3717 (Repl. Vol. 2013).

Cross-reference.- For additional regulations regarding activities of itinerant merchants, see §§14-47 through 14-47.3 of this Code.

Editor's note.--Subsection E. of VA. CODE ANN. §58.1-3717 authorizes, but does not require, the local governing body of a locality imposing a license tax on peddlers and itinerant merchants to "designate the streets or other public places on or in which all licensed peddlers or itinerant merchants may sell or offer for sale their goods, wares or merchandise." Campbell County does not so designate such streets or public places currently.

This article does not purport to regulate charitable solicitations. VA. CODE ANN. §57-63A. (Repl. Vol. 2012) authorizes, but does not require, localities to adopt ordinances consistent with VA. CODE ANN. §57-48 et seq. (Repl. Vol. 2012 and Cum. Supp. 2016) providing for the regulation and licensing of charitable or civic organizations soliciting within the locality, subject to limitations stated therein. The County of Campbell has not adopted such a local ordinance at this time. However, charitable solicitation activities are strictly regulated by state law at VA. CODE ANN. §57-48 et seq. (Repl. Vol. 2012 and Cum. Supp. 2016).

[THE MARCH 17, 1997 ACT adopted this section, which contains provisions similar to former §19-1(c) of this Code.]

[THE MAY 17, 1999 AMENDMENT added subsection (c).]

Sec. 14-44. Limitations on license tax imposed on peddlers and itinerant merchants.

Any license tax upon peddlers and itinerant merchants, imposed under this article pursuant to the authority of VA. CODE ANN. §58.1-3703 (Cum. Supp. 2016) and VA. CODE ANN. §58.1-3717 (Repl. Vol. 2013), shall not apply to the following:

- (1) A peddler at wholesale;
- (2) Persons who sell or offer for sale in person or by employees ice, wood, charcoal, meats, milk, butter, eggs, poultry, game, vegetables, fruits or other family supplies of a perishable nature or farm or agricultural products grown or produced by them and not purchased by them for sale;
- (3) A licensed wholesale dealer who sells and, at the time of such sale, delivers merchandise to retail merchants;
- (4) A distributor or vendor of motor fuels and petroleum products;
- (5) A distributor or vendor of seafood who catches seafood and sells only the seafood caught by him;
- (6) A farmers' cooperative association; or
- (7) A manufacturer who is subject to Virginia tax on intangible personal property who peddles at wholesale, only the goods, wares or merchandise manufactured by him at a plant, whose intangible personal property is taxed by this Commonwealth.

For state law authority, see VA. CODE ANN. §58.1-3717 D. (Repl. Vol. 2013) and §58.1-3719 (Repl. Vol. 2013).

Editor's note.--VA. CODE ANN. §58.1-3718 defines "peddler at wholesale" as "any person, firm or corporation, who or which sells or offers to sell goods, wares, or merchandise to licensed dealers, other than at a definite place of business operated by the seller, and at the time of such sale or exposure for sale delivers, or offers to deliver, the goods, wares or merchandise to the buyer."

[THE MARCH 17, 1997 ACT adopted this section, which contains provisions similar to former §19-1(d) of this Code.]

Sec. 14-45. Incorporation of uniform ordinance; rules of construction.

- (a) The provisions of the uniform ordinance set out at §14-3 of this Code are hereby incorporated herein by reference and made a part of this article.

(b) The specific provisions of this article and the applicable provisions of §14-3 of this Code shall be construed together to provide for the effective administration of the license tax authorized herein. In the event of conflict, the provisions of the uniform ordinance (§14-3 of this Code) shall control.

For state law authority, see VA. CODE ANN. §58.1-3703.1 (Cum. Supp. 2016).

Editor's note.--The license tax imposed upon peddlers and itinerant merchants by this article is not a tax based upon gross receipts, nor is it a license fee. The license tax is imposed pursuant to the authority of VA. CODE ANN. §58.1-3703 A., the last paragraph in subsection A. of VA. CODE ANN. §58.1-3706, and VA. CODE ANN. §58.1-3717. The threshold limitations set forth in the first paragraph of said §58.1-3706 A., such that no license tax could be levied by Campbell County "on any person whose gross receipts from a business, profession or occupation subject to licensure are less than...\$100,000" do not apply to the license tax imposed by this article; the provisions of the last paragraph of subsection A. of said §58.1-3706 specifically exclude peddlers and itinerant merchants from the rate limitation quoted above and further provide that license taxes on peddlers and itinerant merchants shall be controlled by VA. CODE ANN. §58.1-3717. VA. CODE ANN. §58.1-3717 provides that a license tax on peddlers and itinerant merchants shall not exceed \$500 per year. Therefore, the license tax imposed by this article is a flat tax on the privilege of engaging in a licensable activity and is unrelated to gross receipts. Accordingly, those provisions of the uniform ordinance *which deal with a license tax based on gross receipts* should be disregarded when construing the uniform ordinance and this article together.

[THE MARCH 17, 1997 ACT adopted this section.]

Sec. 14-46. License required; due dates; application.

(a) No person shall engage in the activities of a peddler or itinerant merchant as defined in §14-43 of this Code without first obtaining a license therefor from the Commissioner of the Revenue for the County and paying the annual license tax imposed by §14-48 of this Code.

(b) Each person subject to a license tax under this article shall apply for a license prior to beginning business if he was not subject to licensure in Campbell County on or before January 1 of the license year, or no later than May 1 of the license year if he had been issued a license for the preceding year. The license period shall extend for the entire calendar year and the annual license tax shall not be pro-rated for any part of the subject period.

(c) Application for a license shall be made to the Commissioner of the Revenue upon a form prescribed by him.

For state law authority, see VA. CODE ANN. §58.1-3703 (Cum. Supp. 2016) and §58.1-3703.1 (Cum. Supp. 2016), and §58.1-3717 (Repl. Vol. 2013).

Editor's note.--Pursuant to the uniform ordinance at §14-3 of this Code, which has been incorporated in this article by reference: "A separate license shall be required for each definite place of business and for each business." [emphasis added]; see §14-3 A.1. of this Code. Accordingly, a separate license tax must be paid with each separate license application.

[THE MARCH 17, 1997 ACT adopted this section.]

[THE DECEMBER 4, 2006 AMENDMENT substituted “May 1” for “March 1” in (b).]

Sec. 14-47. Additional regulations regarding “itinerant merchants” – Definitions.

For purposes of imposing additional regulations upon the activities of itinerant merchants within Campbell County pursuant to VA. CODE ANN. §54.1-4303 (Repl. Vol. 2013), the following terms, as used in Sections 14-47 through 14-47.3, both inclusive, of this Code, shall have the meaning ascribed herein, unless the context clearly requires a different meaning:

“Infant formula” or “baby formula” means any food manufactured, packaged and labeled specifically for sale for consumption by a child under the age of two years.

“Itinerant merchant” means a merchant, other than a merchant with an established store, regularly open to the public or a licensed merchant with a regularly serviced supply route or location, who transports an inventory of new merchandise to a building, vacant lot, or other location and who, at that location, displays, sells, or offers to sell the new merchandise to the public.

“New merchandise” means goods or products which are not used but are in a similar condition as the goods or products wholesaled by manufacturers or suppliers to established retail stores for first-time purchase by consumers. New merchandise shall not include (i) crafts or goods made by the seller or his own household; (ii) food stuffs; (iii) the seller’s own household personal property; (iv) merchandise sold by nonprofit charitable, educational or religious organizations or at events sponsored by such organizations; or (v) merchandise sold during parades, festivals, sporting or entertainment events, civic or fundraising activities sponsored by nonprofit charitable, educational or religious organizations.

“Nonprescription drug” means any substances or mixture of substances containing medicines or drugs for which no prescription is required and which are generally sold for internal or topical use in the cure, mitigation, treatment, or prevention of disease in human beings.

For state law authority, see VA. CODE ANN. §54.1-4300 and §54.1-4303 (Repl. Vol. 2013).

Editor’s note.—By the adoption of §§14-47 through 14-47.3, both inclusive, of this Code on August 7, 2000, the Board of Supervisors did not purport to regulate charitable solicitations. VA. CODE ANN. §57-63 A. (Repl. Vol. 2012) authorizes, but does not require local regulation of solicitation by charitable or civic organizations, subject to strict state limitations. The County of Campbell has not adopted such a local ordinance at this time. However, charitable solicitation activities are strictly regulated by state law at VA. CODE ANN. §57-48 et seq.

[THE AUGUST 7, 2000 ACT adopted this section.]

[THE DECEMBER 2, 2002 AMENDMENT added the definitions of “Infant formula,” “baby formula” and “Nonprescription drug.”]

Sec. 14-47.1. Same. – Records to be kept.

Every itinerant merchant shall keep an accurate and legible record of his acquisition of the new merchandise. The records of such acquisition shall be retained by the itinerant merchant for at least twelve (12) months from the display, sale or offer for sale of new merchandise and shall set forth the following:

1. A complete description of the new merchandise, including but not limited to product name and quantity of the new merchandise;
2. The time, date, and place of the acquisition of the new merchandise;
3. The amount of money paid for the new merchandise; and
4. Evidence of the legitimate purchase of the new merchandise, including but not limited to a receipt or bill of lading.

For state law basis, see VA. CODE ANN. §54.1-4301 and §54.1-4303 (Repl. Vol. 2013).

[THE AUGUST 7, 2000 ACT adopted this section.]

Sec. 14-47.2. – Same. – Officer may examine records or property.

An itinerant merchant shall permit any local, state or federal law-enforcement officer to examine the records required pursuant to §14-47.1 of this Code and to inspect any article listed in the record.

For state law basis, see VA. CODE ANN. §54.1-4302 and §54.1-4303 (Repl. Vol. 2013).

[THE AUGUST 7, 2000 ACT adopted this section.]

Sec. 14-47.3. Same. – Bona fide purchaser.

Nothing in Sections 14-47 through 14-47.3 of this Code shall affect bona fide purchaser status as to title to new merchandise otherwise applicable to an itinerant merchant.

For state law authority, see VA. CODE ANN. §54.1-4303 and §54.1-4304 (Repl. Vol. 2013).

[THE AUGUST 7, 2000 ACT adopted this section.]

Sec. 14-47.4. Same.—Prohibited sale of certain merchandise; penalty.

(a) No itinerant merchant shall offer for sale or knowingly permit the sale of any infant formula, baby formula or nonprescription drugs. This section shall not apply to any person who maintains for public inspection a valid authorization identifying such person as an authorized representative of the manufacturer or distributor of the prohibited merchandise.

(b) Any person convicted of violating this section shall be guilty of a Class 3 misdemeanor on the first offense. Upon conviction of any subsequent offense he shall be guilty of a Class 2 misdemeanor.

For state law authority, see VA. CODE ANN. §54.1-4303 and §54.1-4305 (Repl. Vol. 2013).

[THE DECEMBER 2, 2002 ACT adopted this section.]

Sec. 14-48. License tax imposed.

(a) There is hereby imposed upon any person who shall engage in the activities of a peddler or itinerant merchant, as defined in §14-43 of this Code, an annual license tax of fifty dollars (\$50.00).

(b) The license tax shall be assessed and paid with the license application, and shall not be pro-rated for any fraction of any calendar year.

For state law authority, see VA. CODE ANN. §58.1-3703 (Cum. Supp. 2016) and §58.1-3703.1 (Cum. Supp. 2016), and §58.1-3717 (Repl. Vol. 2013).

[THE MARCH 17, 1997 ACT adopted this section, which reduces the annual tax from \$500.00 to \$50.00.]

Sec. 14-49. Late filing penalties.

A penalty of ten percent of the tax may be imposed upon the failure to file a license application or the failure to pay the license tax by the appropriate due date. Imposition of such penalties shall be in accordance with the provisions of §14-3 A.2.d. of this Code.

For state law authority, see VA. CODE ANN. §58.1-3703.1 (Cum. Supp. 2016). See also VA. CODE ANN. §58.1-3916 (Repl. Vol. 2013).

[THE MARCH 17, 1997 ACT adopted this section.]

Sec. 14-50. Penalty for violation of article.

Except as otherwise provided in §14-47.4 of this Code, any person who engages in business as a peddler or itinerant merchant within the County without the license required or violates any provision of this article shall be guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a fine of not more than \$250.00.

For state law authority, see VA. CODE ANN. §54.1-4306 (Repl. Vol. 2013). See also VA. CODE ANN. §15.2-1429 (Repl. Vol. 2012) and VA. CODE ANN. §18.2-11 (Repl. Vol. 2014).

[THE MARCH 17, 1997 ACT adopted this section.]

[THE JULY 6, 2004 AMENDMENT inserted “Except as otherwise provided in §14-47.4 of this Code” at the beginning and “or violates any provision of this article” in the middle of this section, and substituted “\$250.00” for “\$500.00.”]

Article VI. Door-to-door Vendors.

As to authority of localities to levy license tax on certain direct sellers, see VA. CODE ANN. §58.1-3719.1 (Repl. Vol. 2013). As to authority of localities to regulate and license certain charitable and religious solicitations, see VA. CODE ANN. §57-63 (Repl. Vol. 2012). As to state law regarding home solicitation sales, see VA. CODE ANN. §59.1-21.1 et seq. (Repl. Vol. 2014). See also Virginia Consumer Protection Act, VA. CODE ANN. §59.1-196 et seq. (Repl. Vol. 2014 and Cum. Supp. 2016).

Editor's note.--Canvassers, solicitors, and peddlers were previously regulated under former Chapter 19 of this Code, which provisions have been revised and redesignated as a part of this chapter.

Sec. 14-51. "Door-to-door vendor" defined; exemptions.

(a) For the purpose of this article, "door-to-door vendor" shall mean any person not otherwise licensed by the Commonwealth of Virginia under Title 38.2 of the Virginia Code Annotated, offering any item for sale within Campbell County when such person goes from one place of human habitation to another offering an item, other than newspapers and fresh farm products, for sale.

(b) Such activities as are described in subsection (a) hereof shall be exempted from the requirements of this article when they are conducted on behalf of a nonprofit charitable, civic or religious organization, and where the proceeds derived from such activities are to be used primarily for nonprofit charitable, community service or religious purposes.

For state law authority, see VA. CODE ANN. §15.2-913 (Repl. Vol. 2012).

Editor's note.--Title 38.2 of the Virginia Code Annotated contains state law provisions regulating the insurance industry.

This article does not purport to regulate charitable solicitations. VA. CODE ANN. §57-63A. (Repl. Vol. 2012) authorizes, but does not require, localities to adopt ordinances consistent with VA. CODE ANN. §57-48 et seq. (Repl. Vol. 2012 and Cum. Supp. 2016) providing for the regulation and licensing of charitable or civic organizations soliciting within the locality, subject to limitations stated therein. The County of Campbell has not adopted such a local ordinance at this time. However, charitable solicitation activities are strictly regulated by state law at VA. CODE ANN. §57-48 et seq.

[THE MARCH 17, 1997 ACT adopted this section, which contains provisions similar to former §19-1 of this Code.]

Sec. 14-52. Reserved.

Editor's note.--The permit fee imposed under §14-54 of this Code is a fee specifically authorized under VA. CODE ANN. §15.2-913 (Repl. Vol. 2012) and is not a license fee or license tax imposed under the authority of VA. CODE ANN. §58.1-3703 (Cum. Supp. 2016). Therefore, the uniform ordinance provisions set forth at §14-3 of this Code do not apply to this article. Any license fee or license tax imposed under authority of VA. CODE ANN. §58.1-3703, §58.1-3706, and/or §58.1-3719.1 shall be subject to the uniform ordinance. See §14-3 herein.

Sec. 14-53. Purpose of article; permit required; application; due dates.

(a) In order to reasonably control the activities of door-to-door vendors for the safety and well-being of the citizens of Campbell County, the Board of Supervisors does hereby require that no person shall engage in the activities of a door-to-door vendor as defined in §14-51 of this Code without first obtaining a permit therefor from the Sheriff of Campbell County, which permit shall be issued by the Commissioner of the Revenue upon written instructions from the Sheriff to issue the same, and paying the annual permit fee imposed by §14-54 of this Code.

(b) To obtain a permit, a door-to-door vendor shall file with the Sheriff an application form, supplied by the Sheriff, which shall include the following information:

- (1) The full legal name and a personal description of the applicant;
- (2) The applicant's street and mailing addresses, legal (permanent) and local;
- (3) The applicant's telephone numbers, permanent and local;
- (4) A brief description of the nature of the business and the goods to be sold;
- (5) If employed, the names, addresses, and telephone numbers of the employer, together with credentials establishing the exact relationship;
- (6) The length of time the applicant plans to engage in door-to-door vending activities in the County if such activity will not be continuous throughout the calendar year;
- (7) If a vehicle is to be used, a description of the same, together with the license number or other means of identification; and
- (8) The place where the goods or property proposed to be sold or orders taken for the sale thereof are manufactured or produced, where such goods or products are located at the time such application is filed and the proposed method of delivery.

(c) Each person subject to a permit fee under this article shall apply for a permit prior to beginning business if he was not subject to the permit requirement in Campbell County on or before January 1 of the license year, or no later than May 1 of the permit year if he had been issued a permit for the preceding year. The permit period shall extend for the entire calendar year and the annual permit fee shall not be prorated for any part of the subject period.

For state law authority, see VA. CODE ANN. §15.2-913 (Repl. Vol. 2012) and §15.2-1200 (Repl. Vol. 2012).

Editor's note.--See editor's note at §14-52 of this Code.

[THE MARCH 17, 1997 ACT adopted this section, similar to former §19-2 of this Code.]

[THE DECEMBER 4, 2006 AMENDMENT substituted "May 1" for "March 1" in (c).]

Sec. 14-54. Permit fee imposed.

(a) There is hereby imposed upon any person who shall engage in the activities of a door-to-door vendor, as defined in §14-51 of this Code, an annual permit fee of ten dollars (\$10.00).

(b) The permit fee shall be assessed and paid with the permit application and shall be deposited into the general fund of Campbell County. The permit fee shall not be pro-rated for any fraction of the calendar year.

For state law authority, see VA. CODE ANN. §15.2-913 (Repl. Vol. 2012).

[THE 1996 ACT adopted this section, containing provisions similar to former §19-2.1.]

Sec. 14-55. Posting or exhibition of County permit.

Any door-to-door vendor issued a permit under this article shall at all times while engaging in the stated business conspicuously post or make available to any person for inspection the County permit.

For state law authority, see VA. CODE ANN. §15.2-913 (Repl. Vol. 2012).

[THE MARCH 17, 1997 ACT adopted this section, which is similar to former §19-2.3.]

Sec. 14-56. Offering for sale unregistered items prohibited; penalty.

No person shall offer any item for sale which item is not included in the permit application form required by §14-53 of this Code. Violations of this section shall constitute a Class 1 misdemeanor and the violator, upon conviction, shall be subject to confinement in jail for not more than twelve months and a fine of not more than \$2,500.00, either or both.

For state law authority, see VA. CODE ANN. §15.2-913 (Repl. Vol. 2012), §15.2-1429 (Repl. Vol. 2012), and §18.2-11 (Repl. Vol. 2014).

[THE MARCH 17, 1997 ACT adopted this section, which is similar to former §19-3.]

Sec. 14-57. Penalty for violations of article.

Any person who engages in the activities of a door-to-door vendor, as defined in §14-51 of this Code, without a permit therefor as required by this article, or who violates any provision of this article other than §14-56, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a fine of not more than \$500.00. Each violation shall constitute a separate offense.

For state law authority, see VA. CODE ANN. §15.2-913 (Repl. Vol. 2012), §15.2-1429 (Repl. Vol. 2012), and §18.2-11 (Repl. Vol. 2014).

[THE MARCH 17, 1997 ACT adopted this section.]

Article VII. Public Service Corporations.

Sec. 14-58 and Sec. 14-59. Reserved.

Editor's note regarding repeal of ordinance: The provisions of this article, which had imposed a license tax on certain public service corporations providing *heat, light or power* within the County, were repealed by the Board of Supervisors at its meeting on June 17, 2002, which repeal became effective on January 1, 2003. For new provisions effective January 1, 2003 affecting certain public service corporations engaging in the business of providing *telephone or telegraph service* within the County, see §14-86 of this Code.

Applicability of former ordinance: VA. CODE ANN. §58.1-2901 F. provides that that portion of the *electric* utility consumption tax (imposed by the state pursuant to VA. CODE ANN. §58.1-2900 et seq.) relating to the local consumption tax replaces and precludes localities from imposing a license tax under §58.1-3731 and a BPOL tax under §58.1-3700 et seq. on *electric suppliers* after December 31, 2000, except as provided in §58.1-2901 D. [See VA. CODE ANN. §58.1-2905 E. for similar language applicable to *natural gas suppliers*.] *Effective with the adoption of former Sections 14-58 and 14-59 on August 7, 2000*, Campbell County fully complied with the prerequisites set forth in VA. CODE ANN. §58.1-2901 and §58.1-2905 necessary to qualify for remittance to the County of the local consumption portion of the state consumption tax relating to electric suppliers and natural gas suppliers.

Cross reference: The license tax formerly imposed by these sections upon certain public service corporations was separate and distinct from the *consumer* utility tax imposed by Campbell County pursuant to the authority of VA. CODE ANN. §58.1-3814. For provisions of County consumer utility tax, see Article XII of Chapter 9 of the Campbell County Code of 1988.

Article VIII. Businesses and Professions.

Cross-reference: For additional licensing requirements regarding automobile junkyards and graveyards, see §15-48 *et seq.* of this Code.

Editor's note: Former Sections 14-60 through 14-75 of this Article, as adopted by the Board of Supervisors of Campbell County on November 20, 2000, were repealed by the Board of Supervisors on June 17, 2002, which repeal became effective on January 1, 2003. Also on June 17, 2002, the Board of Supervisors adopted new Article VIII containing Sections 14-60 through 14-87 as set forth herein, effective on January 1, 2003, *except as otherwise specifically noted*. Subsequent amendments to Article VIII were adopted on December 2, 2002, also effective on January 1, 2003.

Sec. 14-60. Overriding conflicting ordinances; incorporation of uniform ordinance.

(a) Except as may be otherwise provided by the laws of the Commonwealth of Virginia, and notwithstanding any other current ordinances or resolutions enacted by the Board of Supervisors of the County of Campbell, Virginia, whether or not compiled in the Code of the County of Campbell, Virginia, to the extent of any conflict, the following provisions shall be applicable to the levy, assessment, and collection of licenses required and fees and taxes imposed on businesses, trades, professions, occupations and callings and upon persons, firms and corporations engaged therein within the County of Campbell.

(b) The provisions of this article of the Campbell County Code are hereby declared to be severable and in the event that any word, phrase, clause, paragraph or section of this article should be declared unconstitutional, invalid, or in conflict with state law by valid judgment or decree of a court of competent jurisdiction, such declaration shall not affect the validity of the remaining provisions of this article, which shall continue in full force and effect.

(c) The provisions of the Uniform Ordinance set out in Sec. 14-3 of this Code are hereby incorporated herein by reference and made a part of this article.

(d) The specific provisions of this article and the applicable provisions of Sec. 14-3 of this Code shall be construed together to provide for the effective administration of the license tax authorized herein. In the event of conflict, the provisions of the Uniform Ordinance shall control.

For state law authority, see VA. CODE ANN. §58.1-3702 (Repl. Vol. 2013). See also §58.1-3703 (Cum. Supp. 2016) and §58.1-3703.1 (Cum. Supp. 2016).

Editor's note: Pursuant to the provisions of the last paragraph in subsection A. of VA. CODE ANN. §58.1-3706 (Cum. Supp. 2016), certain businesses, trades, professions, occupations, and callings shall be subject to local license taxation imposed under authority of specific statutes cited therein, rather than under those categories generally described in §58.1-3706 A. 1. through 4. These include, but are not limited to, fortune telling and palmistry (§58.1-3726), carnivals and circuses (§58.1-3728), peddlers and itinerant merchants (§58.1-3717), public service corporations (§58.1-

3731), and wholesalers (§58.1-3716). Ordinances providing for license taxation pursuant to the specific statutory authority cited are included in this Chapter.

[THE JUNE 17, 2002 ACT adopted this section, effective January 1, 2003.]

Sec. 14-61. Definitions.

For the purposes of this article, unless otherwise required by the context, the following terms shall have the meaning ascribed below:

(a) **Affiliated group**

(1) One or more chains of corporations subject to inclusion connected through stock ownership with a common parent corporation which is a corporation subject to inclusion if:

a. Stock possessing at least eighty (80) percent of the voting power of all classes of stock and at least eighty (80) percent of each class of the nonvoting stock of each of the corporations subject to inclusion, except the common parent corporation, is owned directly by one or more of the other corporations subject to inclusion; and

b. The common parent corporation directly owns stock possessing at least eighty (80) percent of the voting power of all classes of stock and at least eighty (80) percent of each class of nonvoting stock of at least one of the other corporations subject to inclusion. As used in this subdivision, the term “stock” does not include nonvoting stock which is limited and preferred as to dividends; the phrase “corporation subject to inclusion” means any corporation within the affiliated group irrespective of the state or country of its incorporation; and the term “receipts” includes gross receipts and gross income.

(2) Two (2) or more corporations if five (5) or fewer persons who are individuals, estates or trusts own stock possessing:

a. At least eighty (80) percent of the total combined voting power of all classes of stock entitled to vote or at least eighty (80) percent of the total value of shares of all classes of the stock of each corporation; and

b. More than fifty (50) percent of the total combined voting power of all classes of stock entitled to vote or more than fifty (50) percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.

When one (1) or more of the corporations subject to inclusion, including the common parent corporation is a nonstock corporation, the term “stock” as used in this subdivision shall refer to the nonstock corporation membership or membership voting rights, as is appropriate to the context.

(b) **Assessment** means a determination as to the proper rate of tax, the measure to which the tax rate is applied, and ultimately the amount of tax, including additional or omitted tax, that is due. An assessment shall include a written assessment made pursuant to notice by the assessing official or a self-assessment made by a taxpayer upon the filing of a return or otherwise not pursuant

to notice. Assessments shall be deemed made by an assessing official when a written notice of assessment is delivered to the taxpayer by the assessing official or an employee of the assessing official, or mailed to the taxpayer at his last known address. Self assessments shall be deemed made when a return is filed, or if no return is required, when the tax is paid. A return filed or tax paid before the last day prescribed by ordinance for the filing or payment thereof shall be deemed to be filed or paid on the last day specified for the filing of a return or the payment of tax, as the case may be.

(c) **Assessor or assessing official** means the Commissioner of the Revenue of the County, and any of the Commissioner's duly authorized deputies, assistants, employees or agents.

(d) **Base year** means the calendar year preceding the license year, except for contractors subject to the provisions of VA. CODE ANN. §58.1-3715 (Repl. Vol. 2013). The base year for beginning businesses shall be as hereinafter provided for in Sec. 14-70 of this Code.

(e) **Business** means a course of dealing which requires the time, attention and labor of the person so engaged for the purpose of earning a livelihood or profit. It implies a continuous and regular course of dealing, rather than an irregular or isolated transaction. A person may be engaged in more than one business. The following acts shall create a rebuttable presumption that a person is engaged in a business: (i) advertising or otherwise holding oneself out to the public as being engaged in a particular business, or (ii) filing tax returns, schedules and documents that are required only of persons engaged in a trade or business.

(f) **Commissioner or Commissioner of Revenue** means the Commissioner of the Revenue of the County, and any of the Commissioner's duly authorized deputies, assistants, employees or agents, and for purposes of this Chapter, shall have the same meaning as "assessor" or "assessing official."

(g) **County** means the County of Campbell

(h) **Definite place of business** means an office or a location at which occurs a regular and continuous course of dealing for thirty (30) consecutive days or more. A definite place of business for a person engaged in business may include a location leased or otherwise obtained from another person on a temporary or seasonal basis, and real property leased to another. A person's residence shall be deemed to be a definite place of business if there is no definite place of business maintained elsewhere and the person is not licensable as a peddler or itinerant merchant.

(i) **Entity** means a business organization, other than a sole proprietorship, that is a corporation, limited liability company, limited partnership, or limited liability partnership duly organized under the laws of the Commonwealth or another state.

(j) **Fuel sale or fuel sales** shall mean retail sales of alternative fuel, blended fuel, diesel fuel, gasohol, or gasoline, as such terms are defined in VA. CODE ANN. §58.1-2201.

(k) **Gas retailer** means a person or entity engaged in business as a retailer offering to sell at retail on a daily basis alternative fuel, blended fuel, diesel fuel, gasohol, or gasoline, as such terms are defined in VA. CODE ANN. §58.1-2201.

(l) **Gross receipts** means the whole, entire, total receipts, without deduction, subject to exclusions set forth in VA. CODE ANN. §58.1-3732 (Repl. Vol. 2013).

The calculation of gross receipts for license purposes shall be on either a cash or accrual basis; provided, however, that the basis used must coincide with the system of accounts used by the taxpayer and the method employed by the taxpayer for federal and state income tax purposes.

(m) **License year** means the calendar year for which a license is issued for the privilege of engaging in business.

(n) **Person** shall include individuals, firms, copartnerships, corporations, companies, associations, or joint stock corporations; and it shall include any trustee, receiver, assignee, or personal representative thereof carrying on or continuing a business, profession, trade, occupation or calling. This definition shall not include a trustee, receiver, or other representative duly appointed by a court to liquidate assets for immediate distribution; or a sergeant, sheriff, or deputy selling under authority of process or writ of a court of justice.

(o) **Purchases** shall mean all goods, wares and merchandise received for sale at each definite place of business of a wholesale merchant. The term shall also include the cost of manufacture of all goods, wares and merchandise manufactured by any wholesale merchant and sold or offered for sale. A wholesale merchant may elect to report the gross receipts from the sale of manufactured goods, wares and merchandise if it cannot determine the cost of manufacture or chooses not to disclose the cost of manufacture.

(p) **Services** shall mean things purchased by a customer which do not have physical characteristics, or which are not goods, wares, or merchandise.

(q) **Treasurer** shall mean the Treasurer of the County of Campbell, Virginia, and any of the Treasurer's duly authorized deputies, assistants, employees or agents.

For state law authority, see VA. CODE ANN. §58.1-3700.1 (Repl. Vol. 2013). See also §§58.1-3708 and 58.1-3709 (Repl. Vol. 2013).

[THE JUNE 17, 2002 ACT adopted this section, effective January 1, 2003.]

[THE JUNE 5, 2006, AMENDMENT inserted the phrase beginning "without deduction" at the end of the definition of "Gross receipts."]

[THE JULY 2, 2007 AMENDMENT redesignated definitions (i) through (n) as present (l) through (q); and added new definitions (i) "Entity," (j) "Fuel sale or fuel sales," and (k) "Gas retailer."]

Sec. 14-62. Levying of license fees and taxes.

(a) Subject to the limitations provided in VA. CODE ANN. §58.1-3703.C. (Cum. Supp. 2016) and except as otherwise specifically provided for in this chapter of the Campbell County Code, there are hereby imposed and levied for each and every year, beginning with January 1 of

each year and ending December 31 following, and there shall be collected the following license fees and taxes upon the privilege of doing business or exercising a profession, trade, occupation or calling, including all phases thereof, in the county, which license fees and taxes shall be for the support of the county government, payment of the county debt, and for other county and public purposes:

(1) There is hereby imposed and there shall be collected an annual license fee in the amount of twenty dollars (\$20.00) for businesses grossing less than \$15,000.00 during the preceding calendar year; thirty dollars (\$30.00) for businesses grossing at least \$15,000.00 but less than \$30,000.00 for the preceding calendar year; forty dollars (\$40.00) for businesses grossing at least \$30,000.00 but less than \$100,000.00 for the preceding calendar year for issuance of a license on a businesses, trades, professions, occupations and callings and upon the persons, firms and corporations engaging therein within the county; provided, however, that this license fee shall not be charged to any person whose gross receipts from a business, trade, profession, occupation or calling are one hundred thousand dollars (\$100,000.00) or greater during the preceding calendar year and who is subject to levy and payment of the annual license taxes as provided in subsection (a)(2) hereof; and

(2) There is hereby levied and there shall be collected the annual license taxes at the rates and in the amounts hereinafter set forth in this chapter upon any person, firm, or corporation engaged in a business, trade, profession, occupation or calling subject to licensure in the county. Except as may be otherwise authorized by specific or special provisions of Chapter 37 of Title 58.1 of the Code of Virginia (§58.1-3700 et seq. (Repl. Vol. 2013 and Cum. Supp. 2016)) and this chapter of the Campbell County Code, the annual license taxes shall not be imposed upon any person whose gross receipts from a business, profession, trade, occupation or calling are less than one hundred thousand dollars (\$100,000.00) during the preceding calendar year.

(b) Where the license tax imposed in this article is measured by volume, the volume on which the tax may be computed shall be the volume attributable to all definite places of business of the business, profession, trade, occupation or calling in the County. All volume attributable to any definite places of business of the business, profession, trade, occupation or calling in any other locality shall be deductible from the base in computing any local license tax measured by volume imposed upon the licensee in the County. "Volume," as used in this section, means gross receipts, sales, purchases, or other base for measuring a license tax which is related to the amount of business done.

For state law authority, see VA. CODE ANN. §58.1-3703 (Cum. Supp. 2016). For state law authority for (b), see VA. CODE ANN. §58.1-3708 (Repl. Vol. 2013).

[THE JUNE 17, 2002 ACT adopted this section, effective January 1, 2003.]

Sec. 14-63. License requirement.

(a) Every person engaging in the County in any business, trade, profession, occupation or calling (collectively hereinafter "a business") as defined in this article, unless otherwise exempted by law, shall apply for a license for each such business if (i) the person has a definite place of business in the County; (ii) there is no definite place of business anywhere and the person

resides in this jurisdiction; or (iii) there is no definite place of business in the County but the person operates amusement machines or is classified as an itinerant merchant, peddler, carnival, circus, contractor subject to VA. CODE ANN. §58.1-3715 (Repl. Vol. 2013), or public service corporation subject to VA. CODE ANN. §58.1-3731 (Repl. Vol. 2013).

(b) A separate license shall be required for each definite place of business and for each business. A person engaged in two (2) or more businesses or professions carried on at the same place of business may elect to obtain one (1) license for all such businesses and professions if all of the following criteria are satisfied: (i) each business or profession is subject to licensure at the location and has satisfied any requirements imposed by state law or other provisions of the ordinances of the County; (ii) all of the businesses or professions are subject to the same tax rate, or, if subject to different tax rates, the licensee agrees to be taxed on all businesses and professions at the highest rate; and (iii) the taxpayer agrees to supply such information as the assessor may require concerning the nature of the several businesses and their gross receipts.

(c) Each person subject to a license fee or tax shall apply to the Commissioner of Revenue for a license prior to beginning business, if he was not subject to licensure in the County on or before January 1 of the license year, or no later than May 1 of the current license year if he had been issued a license for the preceding license year. The application shall be on forms prescribed by the Commissioner of Revenue and shall be properly completed with such information as the Commissioner may require. Every applicant for a license under the provisions of this article shall furnish the Commissioner of the Revenue in writing with his correct name and trade name; his correct residence address; the nature of the business, profession, trade, occupation or calling to be pursued; the place where it is to be pursued; and a record of gross receipts verified by oath for the preceding twelve (12) months; as well as such other information as may be required by the Commissioner of the Revenue. The Commissioner shall compute the amount of license tax and after payment shall issue the license, subject to zoning certification as provided in Sec. 14-66.

(d) No license issued pursuant to this article shall be valid or effective unless and until the tax required shall be paid to the Treasurer of Campbell County and such payment shall be shown on the license. No such payment shall be accepted and no business license shall be issued until the applicant has produced satisfactory evidence that all delinquent business license, business personal property, meals, transient occupancy and admissions taxes owed by the business to the County have been paid which have been properly assessed against the applicant by the County.

(e) Any person who engages in a business without obtaining the required license, or after being refused a license, shall not be relieved of the fee and tax imposed by this article.

(f) The Commissioner of the Revenue shall report monthly to the Treasurer the aggregate amount of license taxes assessed during the month and placed in the hands of the Treasurer for collection.

For state law authority, see VA. CODE ANN. §58.1-3700 (Repl. Vol. 2013), VA. CODE ANN. §58.1-3703 (Cum. Supp. 2016) and §58.1-3703.1 (Cum. Supp. 2016).

Editor's note: For statute prohibiting denial of certain local licenses or permits to persons otherwise entitled during pendency of bona fide application for correction of assessment, appeal of a local

license tax, including but not limited to local business taxes, etc., see VA. CODE ANN. §58.1-3995 (Repl. Vol. 2013).

[THE JUNE 17, 2002 ACT adopted this section, effective January 1, 2003.]

[THE DECEMBER 4, 2006 AMENDMENT substituted “May 1” for “March 1” in (c).]

Sec. 14-64. Payment of tax.

The license fee or tax shall be paid with the application in the case of any license for any business the gross receipts of which are under \$100,000.00. If the tax is measured by gross receipts of \$100,000.00 or more or purchases of the business, the tax shall be paid on or before May 1, or no later than thirty (30) days after commencement of the business, profession, trade, occupation or calling.

For state law authority, see VA. CODE ANN. §58.1-3703.1 (Cum. Supp. 2016).

[THE JUNE 17, 2002 ACT adopted this section, effective January 1, 2003.]

[THE DECEMBER 4, 2006 AMENDMENT substituted “May 1” for “March 1” in the second sentence.]

Sec. 14-65. Penalty and interest.

(a) The assessing official may grant an extension of time in which to file an application for a license, for reasonable cause. The extension may be conditioned upon the timely payment of a reasonable estimate of the appropriate tax; the tax is then subject to adjustment to the correct tax at the end of the extension, together with interest from the due date until the date paid and, if the estimate submitted with the extension is found to be unreasonable under the circumstances, with a penalty of ten percent (10%) of the portion paid after the due date.

(b) A penalty of ten percent (10%) of the tax may be imposed upon the failure to file an application or the failure to pay the tax by the appropriate due date. Only the late filing penalty shall be imposed by the assessing official if both the application and payment are late; however, both penalties may be assessed if the assessing official determines that the taxpayer has a history of noncompliance. In the case of an assessment of additional tax made by the assessing official, if the application and, if applicable, the return were made in good faith and the understatement of the tax was not due to any fraud, reckless or intentional disregard of the law by the taxpayer, there shall be no late payment penalty assessed with the additional tax. If any assessment of tax by the assessing official is not paid within thirty (30) days, the Treasurer may impose a ten percent (10%) late payment penalty. If the failure to file or pay was not the fault of the taxpayer, the penalties shall not be imposed, or if imposed, shall be abated by the official who assessed them. In order to demonstrate lack of fault, the taxpayer must show that he acted responsibly and that the failure was due to events beyond his control.

“Acted responsibly” means that: (i) the taxpayer exercised the level of reasonable care that a prudent person would exercise under the circumstances in determining the filing obligations for the business and (ii) the taxpayer undertook significant steps to avoid or mitigate the failure, such as

requesting appropriate extensions (where applicable), attempting to prevent a foreseeable impediment, acting to remove an impediment once it occurred, and promptly rectifying a failure once the impediment was removed or the failure discovered.

“Events beyond the taxpayer’s control” include, but are not limited to, the unavailability of records due to fire or other casualty; the unavoidable absence (e.g., due to death or serious illness) of the person with the sole responsibility for tax compliance; or the taxpayer’s reasonable reliance in good faith upon erroneous written information from the assessing official, who was aware of the relevant facts relating to the taxpayers business when he provided the erroneous information.

(c) Interest at the rate of ten percent (10%) per annum shall be charged on the late payment of the tax from the due date until the date paid without regard to fault or other reason for the late payment.

(d) Whenever an assessment of additional or omitted tax by the assessing official is found to be erroneous, all interest and penalty charged and collected on the amount of the assessment found to be erroneous shall be refunded together with interest on the refund from the date of payment or the due date, whichever is later. Interest shall be paid on the refund of any tax paid under this article from the date of payment or due date, whichever is later, whether attributable to an amended return or other reason. Interest on any refund shall be paid at the same rate charged under this chapter or VA. CODE ANN. §58.1-3916 (Repl. Vol. 2013).

(e) No interest shall accrue on an adjustment of estimated tax liability to actual liability at the conclusion of a base year. No interest shall be paid on a refund or charged on a late payment, provided the refund or the late payment is made not more than thirty (30) days from the date of the payment that created the refund or the due date of the tax, whichever is later.

(f) Taxes, penalties and interest herein provided shall be assessed and collected in the manner provided by law for the enforcement of the collection of other taxes, except as may be otherwise provided herein.

For state law authority, see VA. CODE ANN. §58.1-3703.1 A. 2. c, d, and e (Cum. Supp. 2016).

[THE JUNE 17, 2002 ACT adopted this section, effective January 1, 2003.]

[THE JUNE 5, 2006 AMENDMENT updated citations and made minor stylistic changes throughout the section.]

Sec. 14-66. Zoning compliance.

It shall be the duty of every person applying for a business license to ascertain whether the location for the conducting of such business, profession, trade, occupation or calling is properly zoned and has any necessary use permit before making application for such business license. The Commissioner of the Revenue, in any case where he suspects the location is not properly zoned for the type of business, profession, trade, occupation or calling proposed by the applicant, shall refuse to issue such business license until a certificate is issued by the zoning administrator stating that the

location is properly zoned and the necessary use permit, if any, has been granted. The issuance of a business license by the Commissioner of the Revenue shall not be deemed to be approval by the County of zoning compliance.

For state law authority, see VA. CODE ANN. §58.1-3703.1 (Cum. Supp. 2016).

[THE JUNE 17, 2002 ACT adopted this section, effective January 1, 2003.]

Sec. 14-67. Reserved.

Sec. 14-68. Exclusions and deductions from “gross receipts.”

(a) General rule. Gross receipts for license tax purposes shall not include any amount not derived from the exercise of the licensed privilege to engage in a business or profession in the ordinary course of business or profession.

(b) The following items shall be excluded from gross receipts:

(1) Amounts received and paid to the United States, the Commonwealth or any county, city or town for the Virginia retail sales or use tax, or for any local sales tax or any local excise tax on cigarettes, or amounts received for any federal or state excise taxes on motor fuels.

(2) Any amount representing the liquidation of a debt or conversion of another asset to the extent that the amount is attributable to a transaction previously taxed (e.g., the factoring of accounts receivable created by sales which have been included in taxable receipts even though the creation of such debt and factoring are a regular part of its business).

(3) Any amount representing returns and allowances granted by the business to its customer.

(4) Receipts which are the proceeds of a loan transaction in which the licensee is the obligor.

(5) Receipts representing the return of principal of a loan transaction in which the licensee is the creditor, or the return of principal or basis upon the sale of a capital asset.

(6) Rebates and discounts taken or received on account of purchases by the licensee. A rebate or other incentive offered to induce the recipient to purchase certain goods or services from a person other than the offeror, and which the recipient assigns to the licensee in consideration of the sale of goods and services shall not be considered a rebate or discount to the licensee, but shall be included in the licensee’s gross receipts together with any handling or other fees related to the incentive.

(7) Withdrawals from inventory for purposes other than sale or distribution and for which no consideration is received and the occasional sale or exchange of assets other than inventory, whether or not a gain or loss is recognized for federal income tax purposes.

(8) Investment income not directly related to the privilege exercised by a business subject to licensure not classified as rendering financial services. This exclusion shall apply to interest on bank accounts of the business, and to interest, dividends and other income derived from the investment of its own funds in securities and other types of investments unrelated to the licensed privilege. This exclusion shall not apply to interest, late fees and similar income attributable to an installment sale or other transaction that occurred in the regular course of business.

(c) The following shall be deducted from gross receipts or gross purchases that would otherwise be taxable:

(1) Any amount paid for computer hardware and software that are sold to a United States federal or state government entity provided that such property was purchased within two years of the sale to said entity by the original purchaser who shall have been contractually obligated at the time purchase to resell such property to a state or federal government entity. This deduction shall not occur until the time of resale and shall apply to only the original cost of the property and not to its resale price, and the deduction shall not apply to any of the tangible personal property which was the subject of the original resale contract if it is not resold to a state or federal government entity in accordance with the original contract obligation.

(2) Any receipts attributable to business conducted in another state or foreign country in which the taxpayer (or its shareholders, partners or members in lieu of the taxpayer) is liable for an income or other tax based upon income.

For state law authority, see VA. CODE ANN. §58.1-3732 (Repl. Vol. 2013).

[THE JUNE 17, 2002 ACT adopted this section, effective January 1, 2003.]

[THE DECEMBER 2, 2002 AMENDMENT, effective January 1, 2003, inserted the parenthetical language in (c)(2).]

[THE DECEMBER 3, 2007 AMENDMENT, effective January 1, 2008, inserted “or amounts received” preceding “for any federal or state excise taxes on motor fuels” in (b)(1).]

Sec. 14-69. Recordkeeping and audits.

(a) Every person who is assessable with a local license fee or tax under this chapter shall keep sufficient records and accounts to enable the assessor to verify the correctness of the tax paid for the license years assessable and to enable the assessor to ascertain what is the correct amount of tax that was assessable for each of those years. All such records, books of account and other information shall be open to inspection and examination by the assessor in order to allow the assessor to establish whether a particular receipt is directly attributable to the taxable privilege exercised within the County, and shall be maintained for a period of five (5) years.

(b) The assessor shall provide the taxpayer with the option to conduct the audit in the taxpayer's local business office, if the records are maintained there. In the event the records are maintained outside the county, copies of the appropriate books and records shall be sent to the assessor's office upon demand.

(c) Each licensee whose license is measured by gross receipts or purchases shall submit to the Commissioner of the Revenue, not later than May 1 of each year, a report of his gross receipts or purchases for the preceding year.

(d) In those cases in which the conduct of the business, profession, trade, occupation or calling involves operations subject to more than one (1) rate or computed on more than one (1) base, as herein set forth, the licensee is hereby required to maintain separate accounts for each such operation; provided, however, that the licensee may elect to maintain a single account for all operations in which case the entire business license shall be computed at the highest rate applicable to any part of the business taxed on gross receipts.

(e) If any licensee shall fail to maintain the records required in this section, regularly supported by customary vouchers, the Commissioner of the Revenue is hereby authorized and directed to estimate the taxpayer's gross receipts or purchases on the basis of the best evidence he can obtain, and the Commissioner of the Revenue shall make an assessment on the basis of such determination.

For state law authority generally, see VA. CODE ANN. §58.1-3109 (Repl. Vol. 2013) and VA. CODE ANN. §58.1-3703.1 (Cum. Supp. 2016). For authority for (a) and (b), see VA. CODE ANN. §58.1-3703.1 A.9. (Cum. Supp. 2016).

[THE JUNE 17, 2002 ACT adopted this section, effective January 1, 2003.]

[THE DECEMBER 4, 2006 AMENDMENT substituted "May 1" for "March 1" in (c).]

Sec. 14-70. Commencement of business.

(a) Every person beginning a business, profession, trade, occupation or calling which is subject to licensure under the provisions of this chapter and is based in whole or in part on gross receipts or purchases, shall estimate the amount of the gross receipts he will receive or the purchases to be made between the date of beginning business and the end of the then-current year, and his license fee or tax for the then-current year shall be computed on such estimate.

(b) Whenever a license fee or tax is so computed upon the estimated gross receipts or purchases, any erroneous estimate shall be subject to correction and the Commissioner of the Revenue shall assess such person with any additional license fee or tax found to be due after the end of that license year, and shall at the same time correct the estimate for the then current license year, until a full year of operation shall have been completed, and in case of an over-estimate the taxpayer shall be entitled to a credit upon his license fee or tax payable the following year.

For state law authority, see VA. CODE ANN. §58.1-3703.1 (Cum. Supp. 2016).

[THE JUNE 17, 2002 ACT adopted this section, effective January 1, 2003.]

Sec. 14-71. Payment of license tax by corporations, partnerships, or employers.

When the business, profession, trade, occupation or calling licensed is conducted by a corporation or partnership, or by an employer of persons who would otherwise be liable for a license tax, and the license tax is imposed upon the gross receipts or purchases thereof, then the license tax shall be paid by the corporation or partnership, or employer; and when so paid it shall be deemed to discharge the license tax liability of the officers and employees of such corporation, and of the partners and employees of such partnership and of such persons employed by an employer who would otherwise be liable for such license tax, insofar as the business of such licensed corporation, partnership or employer is concerned.

For state law authority, see VA. CODE ANN. §58.1-3703.1 (Cum. Supp. 2016).

[THE JUNE 17, 2002 ACT adopted this section, effective January 1, 2003.]

Sec. 14-72. Transfer of licenses.

(a) Licenses issued under the provisions of Sections 14-79, 14-80, 14-81, 14-82, 14-83, 14-84, 14-84.1, and 14-86 of this Code, except as otherwise provided, may be transferred from one person to another or from one location to another; provided that no such transfer shall be valid unless and until notice in writing is given to the Commissioner of the Revenue of the proposed transfer, which notice shall contain the name, trade name, if any, and the address of the proposed transferee; the proposed new location, if any; and the effective date of the proposed transfer; and the Commissioner of the Revenue may approve such transfer upon being satisfied of the good faith thereof. Failure to notify the Commissioner of the Revenue of the transfer of a license within thirty (30) days of such transfer shall invalidate such license and such invalidated license shall not be subject to refund as provided by §14-75 of this Code.

(b) It is specifically provided, however, that if the transferor's license for the current license year has been based on an estimate of gross receipts or purchases, as provided in subsections 14-61 (l) and (o) of this Code the transferor shall reveal his gross receipts or purchases for the period he was in business during the current license year and if the accumulation of gross receipts or purchases by transfer date shall exceed the original estimate, the transferee shall be required to amend the license by an estimate of the gross receipts or purchases he will incur between the day of beginning business and the end of the current license year.

For state law authority, see VA. CODE ANN. §58.1-3703 (Cum. Supp. 2016).

Editor's note: The words "and shall not be subject to refund as provided by Sec. 14-75" were editorially deleted following "14-86 of this Code" near the beginning of (a) due to an earlier

transcription error; the reference to “14-84.1” was inserted editorially near the beginning of (a) to reflect the adoption of that section by the Board of Supervisors on June 5, 2006.

[THE JUNE 17, 2002 ACT adopted this section, effective January 1, 2003.]

[THE JULY 2, 2007 AMENDMENT updated the internal references in (b).]

Sec. 14-73. Display of evidence of license.

Every person required to obtain a license under the provisions of this article shall keep the form, decal, or sign issued in evidence thereof as prescribed by the Commissioner of the Revenue in a convenient and conspicuous place, and whenever required to do so shall exhibit the same to any authorized enforcement officer of the county.

For state law authority, see VA. CODE ANN. §58.1-3703 (Cum. Supp. 2016).

[THE JUNE 17, 2002 ACT adopted this section, effective January 1, 2003.]

Sec. 14-74. Assessment of omitted or insufficient license fees or taxes.

(a) If the Commissioner of the Revenue ascertains that any person has not been assessed with a license fee or tax levied under the terms of this article for any license year of the three (3) license years last past, it shall be the duty of the Commissioner of the Revenue to assess such person with the proper license fee or tax for the year or years omitted.

(b) If the Commissioner of the Revenue ascertains that any assessment of a license fee or tax levied under the provisions of this article for any of the three (3) license years last past or for the then-current license year was for less than the correct amount, then the Commissioner of the Revenue shall assess the licensee with the additional license fee or tax found to be due.

(c) Penalty and interest at the rate provided under §14-65 of this Code shall accrue on such omitted or insufficient tax amounts from the date of such assessment until payment; provided, if such assessment was necessitated through no fault of the taxpayer, such penalty and interest shall accrue after thirty (30) days from such date of assessment until payment.

(d) Pursuant to VA. CODE ANN. §58.1-3703.1 A.4.b. (Cum. Supp. 2016), the assessing official shall assess the local license tax omitted *because of fraud or failure to apply for a license* for the current license year and the six (6) preceding license years. In the event that the omitted or insufficient assessment or payment of such license fees or taxes is due to the fraudulent intent to evade taxes on the part of person responsible for the same, penalty and interest at the rate provided under §14-65 of this Code shall accrue on such omitted or insufficient tax amounts from the date that the tax amounts otherwise should have been due and payable. Such person shall further be subject to any and all applicable sanctions and criminal penalties for violation of this article as provided in this Code and by state law.

For state law authority, see VA. CODE ANN. §58.1-3903 (Repl. Vol. 2013) and VA. CODE ANN. §58.1-

3703.1 A.4.b. (Cum. Supp. 2016). See also VA. CODE ANN. §58.1-3109 (Repl. Vol. 2013).

Editor's note: Pursuant to VA. CODE ANN. §58.1-3703.1 B., the provisions of subsection A.4.b. of that section permitting an assessment of a license tax for up to six preceding years in certain circumstances shall not be construed to permit the assessment of tax for a license year beginning before January 1, 1997.

[THE JUNE 17, 2002 ACT adopted this section, effective January 1, 2003.]

[THE JULY 2, 2007 AMENDMENT added the first sentence in (d).]

Sec. 14-75. Erroneous assessments and refunds.

(a) The Commissioner of the Revenue is empowered to certify to the Treasurer any instances of erroneous assessments. Upon receipt of such certificate the Treasurer is directed to make a refund based upon the certificate of the Commissioner of the Revenue.

(b) Licenses issued under the provisions of Sections 14-79, 14-80, 14-81, 14-82, 14-83, 14-84, 14-84.1, and 14-86, except those measured by other than gross receipts or purchases, shall be subject to refund where the licensee goes out of business before the end of the current license year subject to all of the following qualifications:

(1) License for the current license year must be based on gross receipts or purchases obtained throughout the preceding calendar year.

(2) The reason for going-out-of-business is not connected in any manner with the violation of any state law or local ordinance or violation of any rules or regulations made pursuant thereto.

(3) The amount of refund shall be determined in the following manner: If the licensee goes out of business before the end of any month except December, the refund shall be calculated by dividing the tax paid for that year's license by a fraction in which the numerator shall be the number of months remaining in the calendar year following the month in which business ceases and the denominator is the number twelve (12); but in no case shall the refund reduce the tax below the minimum as provided by this Code.

(4) No refund shall be made of any license fee, of any minimum flat tax, or of any other flat license fee not based on gross receipts or purchases.

(c) Refunds based on licensee going out of business shall be made in the same manner as herein provided for erroneous assessments.

(d) If any person seeking a refund is indebted to the county or any department or office thereof, or is indebted to any state constitutional office of the county for a local levy, the refund, or so much thereof as is necessary, shall first be applied to such indebtedness.

(e) Any person who has been properly issued a license may apply for a refund prior to the date upon which the license was to become effective by providing satisfactory evidence to the Commissioner of the Revenue that the business was never commenced or the sale, show, performance, or exhibition will not take place. Upon being satisfied that such license was never in effect, the Commissioner of the Revenue may authorize a refund of the license fee or tax paid, less a thirty dollar (\$30.00) processing fee.

For state law authority, see VA. CODE ANN. §§58.1-3980 and 58.1-3981 (Repl. Vol. 2013).

[THE JUNE 17, 2002 ACT adopted this section, effective January 1, 2003.]

Sec. 14-76. License as personal privilege.

Every license issued under the provisions of this article shall be deemed to confer a personal privilege to transact, carry on, or conduct the business, profession, trade, occupation or calling which may be the subject of the license, and shall not be exercised except by the persons licensed.

For state law authority, see VA. CODE ANN. §58.1-3703 (Cum. Supp. 2016).

[THE JUNE 17, 2002 ACT adopted this section, to become effective January 1, 2003.]

Sec. 14-77. Enforcement.

(a) In the enforcement of the provisions of this article the Commissioner of the Revenue of the County, in addition to the powers herein specifically granted, shall have all and the same enforcement authority with respect to county licenses that state law confers upon Commissioners of the Revenue generally with respect to state licenses, except to the extent that such authority and powers are in conflict with the specific provisions of VA. CODE ANN. §58.1-3703.1 (Cum. Supp. 2016) which shall be overriding as applied to license fees and taxes.

(b) As one of the means of ascertaining the amount of any license fee or tax due under the provisions of this article, or of ascertaining any other pertinent information, the Commissioner of the Revenue may require taxpayers or their agents or any person, firm, or officer of a company or corporation to furnish information relating to tangible or intangible personal property, income, or license fees or taxes of any and all taxpayers; and require such persons to furnish access to books of account or other papers and records for the purpose of verifying the tax returns of such taxpayers and procuring the information necessary to make a complete assessment of any taxpayer's tangible and intangible personal property, and license fees or taxes for the current year and the three preceding tax years.

(c) The Commissioner may, for the purpose of assessing all taxes assessable by his office, summon the taxpayer or any other person to appear before him at his office, to answer under oath, questions touching the tax liability of any and all specifically identified taxpayers and to produce documents relating to such tax liability, either or both. For the purposes of administering this section, the Commissioner and his deputies may administer oaths. The commissioner shall not,

however, summon a taxpayer or other person for the tax liability of the taxpayer which is the subject of litigation.

(d) Any court of competent jurisdiction may, upon the application of the Commissioner or his deputy, compel the compliance of a taxpayer summoned or required to produce documents as required by this section.

(e) Every writ, warrant, notice, summons, or other process the Commissioner is authorized to issue pursuant to general or local law may be served by the Commissioner, or his deputy, or may be directed to the sheriff to be served pursuant to VA. CODE ANN. §8.01-292 and executed and returned in like manner as the civil process of a court of competent jurisdiction.

(f) Any person who refuses to (i) furnish to the Commissioner of the Revenue access to books of account or other papers and records, (ii) furnish information to the Commissioner of the Revenue relating to the assessment of taxes, (iii) answer under oath questions touching any person's tax liability, or (iv) exhibit to the Commissioner of the Revenue any subject of taxation liable to assessment by the Commissioner of the Revenue, shall be deemed guilty of a Class 4 misdemeanor. Each day's refusal to furnish such access or information shall constitute a separate offense. No person other than the taxpayer shall be convicted under this section unless he has willfully failed to comply with a summons properly issued under VA. CODE ANN. §58.1-3110 or under this section.

For state law authority, see VA. CODE ANN. §58.1-3109 (6) (Repl. Vol. 2013); VA. CODE ANN. §58.1-3110 (Cum. Supp. 2016) and §58.1-3111 (Repl. Vol. 2013). See also the second sentence in the first paragraph of VA. CODE ANN. §58.1-3703.1 A (Cum. Supp. 2016).

[THE JUNE 17, 2002 ACT adopted this section, effective January 1, 2003.]

[THE DECEMBER 1, 2003 AMENDMENT added the last sentence in (d).]

[THE DECEMBER 1, 2015 AMENDMENT deleted "income" and added "and the three preceding tax years" to the end of (b), added "and to produce documents relating to such tax liability, either or both. For the purposes of administering this section, the Commissioner and his deputies may administer oaths" to (c), added (d) and (e) and redesignated former subsection (d) as (f).

Sec. 14-78. Violations; penalties.

(a) It shall be unlawful and a violation of this article for any person to operate a business, profession, trade, occupation or calling within the County without having first obtained a license in accordance with Sec. 14-63 and before posting such license as required by Sec. 14-73 (display of evidence). Such violations shall constitute a Class 1 misdemeanor.

(b) Any person who shall willfully fail or refuse to file a business license application or return as required by Sec. 14-63 shall be guilty of a violation of law. Upon conviction for such failure, the person shall be punished as a Class 3 misdemeanor if the amount of the tax lawfully

assessed in connection with the return is one thousand dollars (\$1,000.00) or less and as a Class 1 misdemeanor if the amount of the tax lawfully assessed in connection with the return is more than one thousand dollars (\$1,000.00).

(c) It shall be unlawful and a violation of this article for any person to make false statements with intent to defraud in any application, return, or affidavit required by this article. Such violation shall constitute (i) a Class 3 misdemeanor if the amount of the tax lawfully assessed in connection with the return is one thousand dollars (\$1,000.00) or less, or (ii) a Class I misdemeanor if the amount of the tax lawfully assessed in connection with the return is more than one thousand dollars (\$1,000.00) Upon conviction under this section, the Commissioner of the Revenue shall revoke all licenses of the business for the balance of the license year.

(d) Any person, firm, or corporation holding a license under this article to operate any business shall forfeit such license immediately upon conviction by any court of competent jurisdiction in the Commonwealth of Virginia of a violation of (i) VA. CODE ANN. §18.2-248 (Repl. Vol. 2014), relating to an imitation controlled substance or (ii) VA. CODE ANN. §18.2-246.3 (Repl. Vol. 2014), relating to money laundering. Upon such conviction, the attorney for the Commonwealth shall notify the Commissioner of the Revenue of Campbell County.

For state law authority, see VA. CODE ANN. §58.1-3916.1 (Repl. Vol. 2013) and VA. CODE ANN. §58.1-3700 (Repl. Vol. 2013). See also VA. CODE ANN. §18.2-246.5 (Repl. Vol. 2014) for authority for subsection (d).

Editor's note: For statute prohibiting denial of certain local licenses or permits to persons otherwise entitled during pendency of bona fide application for correction of assessment, appeal of a local license tax, including but not limited to local business taxes, etc., see VA. CODE ANN. §58.1-3995 (Repl. Vol. 2013).

[THE JUNE 17, 2002 ACT adopted this section, effective January 1, 2003.]

[THE DECEMBER 2, 2002 AMENDMENT, effective January 1, 2003, substituted “§18.2-246.3 (Cum. Supp. 2002)” for “§18.2-248.7 (Repl. Vol. 1996)” in (d).]

[THE JULY 2, 2007 AMENDMENT added the last sentence in (d).]

Sec. 14-79. Contractors.

(a) The annual license tax imposed hereunder for contractors and persons constructing on their own account for sale shall be in the amount of sixteen cents (\$0.16) per one hundred dollars (\$100.00) of gross receipts from the business during the preceding calendar year.

(b) “Contractor” means any person, firm or corporation

(1) Accepting or offering to accept orders or contracts for doing any work on or in any building or structure requiring the use of paint, stone, brick, mortar, wood, cement, structural

iron or steel, sheet iron, galvanized iron, metallic piping, tin, lead, or other metal or any other building material;

(2) Accepting or offering to accept contracts to do any paving, curbing, or other work on sidewalks, streets, alleys, or highways, on public or private property, using asphalt, brick, stone, cement, concrete, wood, or any composition;

(3) Accepting or offering to accept an order for or contract to excavate earth, rock, or other material for foundation or any other purpose or for cutting, trimming or maintaining rights-of-way;

(4) Accepting or offering to accept an order or contract to construct any sewer of stone, brick, terra cotta, or other material;

(5) Accepting or offering to accept orders or contracts for doing any work on or in any building or premises involving the erecting, installing, altering, repairing, servicing, or maintaining electric wiring, devices, or appliances permanently connected to such wiring; or the erecting, repairing or maintaining of lines for the transmission or distribution of electric light and power; or

(6) Accepting or offering to accept an order or contract to remodel, repair, wreck, or demolish a building; or

(7) Accepting or offering to accept an order or contract to bore or dig a well; or

(8) Accepting or offering to accept an order or contract to install, maintain, or repair air-conditioning apparatus or equipment; or

(9) Engaging in the business of plumbing and steam fitting whether such work is done or offered to be done by day labor, general contract or subcontract.

(c) Contracting generally includes, but is not limited to, persons engaged in the following occupations, businesses or trades:

- Air Conditioning
- Brick contracting and other masonry
- Building
- Cementing
- Dredging
- Electrical contracting
- Elevator installation
- Erecting signs which are assessed as realty
- Floor scraping or finishing
- Foundations
- House moving
- Paint and paper decorating
- Plastering
- Plumbing, heating, steam-fitting

Refrigeration
Road, street, bridge, tunnel, sidewalk or curb and gutter construction
Roofing and tinning
Sewer drilling and well digging
Sign painting
Structural metalwork
Tile, glass, flooring and floor covering installation
Wrecking, moving or excavating

For state law authority, see VA. CODE ANN. §58.1-3706 (A) (1) (Cum. Supp. 2016), and 58.1-3714 (Repl. Vol. 2013).

[THE JUNE 17, 2002 ACT adopted this section, effective January 1, 2003.]

[THE JULY 2, 2007 AMENDMENT substituted “steam fitting” for “steam” in (b)(9) to correct a clerical error.]

Sec. 14-80. Retailer; retailer of motor fuel.

(a) (1) The annual license tax imposed hereunder for retailers or retail merchants shall be in the amount of twenty cents (\$0.20) per one hundred dollars (\$100.00) of gross receipts from the business during the preceding license year.

(2) Notwithstanding the provisions of subsection (a)(1) above, the annual license tax imposed hereunder for retailers of motor fuel shall be in the amount of fifteen cents (\$0.15) per one hundred dollars (\$100.00) of gross receipts from the business during the preceding license year. For the purposes of this subsection, “motor fuel” means any liquid product for the generation of power in an internal combustion or turbine engine and includes, but is not necessarily limited to, gasoline, diesel fuel, and gasoline-alcohol blends. However, pursuant to VA. CODE ANN. §58.1-3706 E. (Cum. Supp. 2016), in any case in which the Department of Mines, Minerals and Energy determines that the weekly U. S. Retail Gasoline price (regular grade) for PADD 1C (Petroleum Administration for Defense District – Lower Atlantic Region) has increased by 20% or greater in any one-week period over the immediately preceding one-week period and does not fall below the increased rate for at least 28 consecutive days immediately following the week of such increase, then, notwithstanding the tax rate on retailers imposed by this section, the gross receipts taxes on fuel sales of a gas retailer, as defined in §14-61(k) of this Code, made in the following license year shall not exceed 110% of the gross receipts taxes on fuel sales by such retailer in the license year of such increase, subject to exclusions set forth in VA. CODE ANN. §58.1-3706 E.

(b) “Retailer” or “retail merchant” shall mean any person or merchant who sells goods, wares and merchandise for use or consumption by the purchaser or for any purpose other than resale by the purchaser, but does not include sales at wholesale to institutional, commercial and industrial users.

(c) Any person who is both a wholesale merchant and a retail merchant is subject to the retail license tax for the retail portion of the business and the wholesale license tax for the wholesale portion of the business. Such person may, however, obtain a retail license for both the retail and wholesale portions of the business.

(d) Any person engaged in the short-term rental business as defined in VA. CODE ANN. §58.1-3510.4 (Repl. Vol. 2013) shall be classified as a retailer for license tax rate purposes.

For state law authority, see VA. CODE ANN. §58.1-3706 A. 2. and E. (Cum. Supp. 2016).

Cross-reference: For definitions of “fuel sale or fuel sales” and “gas retailer,” see §14-61 (j) and (k) of this Code.

Editor’s note: Regarding application of the last sentence in subsection (a)(2) of §14-80 of this Code, VA. CODE ANN. §58.1-3706 E. (Cum. Supp. 2016), provides that the ceiling placed upon the local gross receipts taxes on fuel sales of a gas retailer shall not apply to any person or entity (i) not conducting business as a gas retailer in the locality for the entire license year immediately preceding the license year of such increase or (ii) that was subject to a license fee [rather than a gross receipts tax] in the locality pursuant to VA. CODE ANN. §58.1-3703 for the license year immediately preceding the license year of such increase. VA. CODE ANN. §58.1-3706 E. also requires that, for license years beginning on or after January 1, 2006, every gas retailer shall maintain separate records for fuel sales and nonfuel sales and shall make such records available on request by the local tax official.

[THE JUNE 17, 2002 ACT adopted this section, effective January 1, 2003.]

[THE JUNE 5, 2006 AMENDMENT redesignated the provisions of (a) as paragraph therein, and added paragraph (2).]

[THE JULY 2, 2007 AMENDMENT added the last sentence in (a)(2).]

Sec. 14-81. Financial services.

(a) The annual license tax imposed hereunder for financial services shall be in the amount of fifty cents (\$0.50) per one hundred dollars (\$100.00) of gross receipts from the occupation during the preceding calendar year.

(b) “Financial services” means the buying, selling, handling, managing, investing, and providing of advice regarding money, credit, securities, or other investments.

(c) Those engaged in rendering financial services include, but are not limited to, the following:

- Buying installment receivables
- Chattel mortgage financing
- Consumer financing
- Credit card services

Credit unions
Factors
Financing accounts receivable
Industrial loan companies
Installment financing
Inventory financing
Loan or mortgage brokers
Loan or mortgage companies
Safety deposit box companies
Security and commodity brokers and services
Stockbroker
Working capital financing
Other money lenders

For state law authority, see VA. CODE ANN. §58.1-3706 (A) (3) (Cum. Supp. 2016). For authority for definition of “Financial services,” see VA. CODE ANN. §58.1-3700.1 (Repl. Vol. 2013).

[THE JUNE 17, 2002 ACT adopted this section, effective January 1, 2003.]

[THE JULY 5, 2005 AMENDMENT substituted “fifty cents (\$0.50)” for “thirty-five cents (\$0.35)” in (a) as an adjustment to the previously erroneously advertised rate. Such rate is consistent with statutory authority and applicable appropriations resolutions of the Board of Supervisors.]

Sec. 14-82. Real estate services.

(a) The annual license tax imposed hereunder for real estate services shall be in the amount of fifty cents (\$0.50) per one hundred dollars (\$100.00) of gross receipts from the business during the preceding calendar year.

(b) “Real estate services” means providing a service with respect to the purchase, sale, lease, rental, or appraisal of real property.

(c) Those rendering real estate services include, but are not limited to, the following:

Appraisers of real estate
Escrow agent, real estate
Fiduciaries, real estate
Lessors of real property
Real estate agents, brokers, and managers
Real estate selling agents
Rental agents for real estate

For state law authority, see VA. CODE ANN. §58.1-3706 (A) (3) (Cum. Supp. 2016). For authority for

definition of “Real estate services,” see VA. CODE ANN. §58.1-3700.1 (Repl. Vol. 2013).

[THE JUNE 17, 2002 ACT adopted this section, effective January 1, 2003.]

Sec. 14-83. Professional services.

(a) The annual license tax imposed hereunder for professional services shall be in the amount of fifty cents (\$0.50) per one hundred dollars (\$100.00) of gross receipts from the occupation during the preceding calendar year.

(b) “Professional services” means services performed by architects, attorneys-at-law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians, and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations, and no others, as the Department of Taxation may list in the BPOL guidelines promulgated pursuant to VA. CODE ANN. §58.1-3701 (Repl. Vol. 2013). The Department shall identify and list each occupation or vocation in which a professed knowledge of some department of science or learning, gained by a prolonged course of specialized instruction and study, is used in its practical application to the affairs of others, either advising, guiding, or teaching them, and in serving their interests or welfare in the practice of an art or science founded on it. The word “profession” implies attainments in professional knowledge as distinguished from mere skill, and the application of knowledge to uses for others rather than for personal profit.

For state law authority, see VA. CODE ANN. §58.1-3706 (A) (3) (Cum. Supp. 2016). For authority for definition of “Professional services,” see VA. CODE ANN. §58.1-3700.1 (Repl. Vol. 2013).

[THE JUNE 17, 2002 ACT adopted this section, effective January 1, 2003.]

Sec. 14-84. Repair service occupations.

(a) The annual license tax imposed hereunder for any repair service occupation, business, or trade shall be in the amount of thirty-five cents (\$0.35) for each one hundred dollars (\$100.00) of gross receipts from the occupation during the preceding calendar year.

(b) Repair service occupations include, but are not limited to, the following:

- Airplane repair
- Auto repair, engine repair of any type
- Bicycle repair
- Business and office machines repair
- Clothes, hats, carpets or rugs, repair of
- Dressmaking, slip covers, drapery and/or curtain making (service only)
- Furniture, upholstering, repair of
- Guns, gun repairing
- Locksmith

Machine shop, boiler shop
Mattresses, repair of
Nickel and chrome plating
Paint shop, other than contractor
Radio, refrigerators, electrical appliance, home appliances, repair of
Reweaving
Road machines, farm machinery, repair of
Saw, tools, repair of
Shades, repair of
Shoe repair
Tire repair
Toys, repair of
Umbrellas, harnesses, leather goods, repair of
Washing, automatic-cleaning of automobiles
Watches, clocks, repair of
Welding shop
Other repair services

For state law authority, see VA. CODE ANN. §58.1-3706 (A) (4) (Cum. Supp. 2016).

[THE JUNE 17, 2002 ACT adopted this section, effective January 1, 2003.]

Sec. 14-84.1. Personal and business service occupations.

(a) The annual license tax imposed hereunder for personal and business service occupations shall be in the amount of thirty-five cents (\$0.35) per one hundred dollars (\$100.00) of gross receipts from the business during the preceding calendar year.

(b) “Personal and business service” means rendering for compensation any personal, business or other services not specifically classified as financial, real estate, professional, or repair services under this chapter, or rendered in any other business or occupation not specifically classified in this chapter unless exempted from local license tax by Title 58.1 of the Code of Virginia.

(c) Those rendering a personal or business service include, but are not limited to, the following:

Addressing letters or envelopes
Advertising agencies
Airports
Ambulance services
Amusements and recreation services (all types)
Animal hospitals, grooming services, kennels or stables (except for services of veterinarian)
Auctioneers and common criers
Automobile driving schools
Barber shops, beauty parlors, and hairdressing establishments, schools and services
Bid or building reporting service

Billiard or pool establishments or parlors
Blacksmith, farrier, or wheelwright
Boat landings
Bondsman
Booking agents or concert managers
Bowling alleys
Brokers and commission merchants other than real estate or financial brokers
Business and governmental research and consulting services
Cemeteries
Chartered clubs
Child care attendants or schools
Child or adult home care registry
Cleaning chimneys and/or furnaces
Clinical laboratory
Coin machine operator
Collection agents or agencies
Commercial photography, art and graphics
Commercial sports (professional rather than amateur)
Computerized information retrieval service
Court reporting and public stenographers
Dance band
Dance halls, studios and schools
Data processing, computer and systems development services
Developing or enlarging photographs
Detective agency and protective services
Domestic service registry
Drafting services
Electrolysis or scalp treatment
Employment agencies
Engraving outside of manufacturing process
Erecting, installing, removing or storing awnings
Escort service
Extermination services (unless services involve performing functions defined as contracting)
Forester
Freight traffic bureaus
Fumigating or disinfecting
Funeral services and crematories
Golf courses, driving ranges and miniature golf courses
Hauling of sand, gravel or dirt (excavated by others)
Hospitals, profit and nonprofit (other than performance of medical services falling with the definition of professional services)
Hotels, motels, tourist courts, boarding and rooming houses and transient trailer parks and campsites
House cleaning services
Hypnotists
Information bureaus
Instructors, tutors, schools and studios of music, ceramics, art, sewing, sports and the like
Interior decorating

Janitorial services
Labor service
Laundry cleaning and garment services including laundries, dry cleaners, linen supply,
diaper service, coin-operated laundries and carpet and upholstery cleaning
Limousine services (unless otherwise exempted by state law)
Mailing, messenger and correspondent services
Massage therapists
Massage technicians
Movie theaters and drive-in theaters
Nickel plating, chromizing and electroplating
Nurses and physician registries
Nursing and personal care facilities including nursing homes, convalescent homes, homes
for the mentally handicapped, old-age homes and rest homes
Packing, crating, shipping, hauling or moving goods or chattels for others
Parcel delivery services
Parking lots, public garages and valet parking
Personal services, labor agents and employment bureaus
Photographers and photographic services
Photocopying
Physical fitness establishment, studio or gym
Physicians registry
Piano tuning
Picture framing and gilding
Porter services
Press clipping services
Private investigators
Promotional agents or agencies
Public relations services
Realty multiple listing services
Renting or leasing any items of tangible personal property
Reproduction services (copying, collating, etc.)
Research and development laboratories
Secretarial services
Septic tank cleaning
Shoe shine shops or stands
Sign painting (unless the painting services involve performing functions defined as
contracting)
Statistical service
Storage--all types
Swimming pool, other than nonprofit or cooperative
Swimming pool maintenance and management
Tabulation services
Tanning salons
Tax preparers (other than professional tax preparers)
Taxicab companies (unless otherwise exempted by state law)
Taxidermist
Telephone answering services
Temporary employee services

Testing laboratories
Theaters
Theatrical performers, bands and orchestras
Towing services
Transportation services including buses and taxis (unless otherwise exempted by state law)
Travel bureaus or travel agencies
Tree surgeons, trimmers and removal services
Trucking companies, intrastate and interstate (unless a certified motor vehicle carrier operating in the commonwealth and filing such annual report as required by VA. CODE ANN. §58.1-2654)
Undertaker, embalmer
Vehicle title service
Wake-up services
Washing, cleaning or polishing automobiles
Other personal or business service occupations, and all other businesses and occupations not specifically listed or exempted by other provisions of this chapter or by state law.

For state law authority, see VA. CODE ANN. §58.1-3706 A.4. (Cum. Supp. 2016).

[THE JUNE 5, 2006 AMENDMENT adopted this section to clarify the types of occupations included within the category of personal and business service occupations upon which is already imposed the license tax of thirty-five cents (\$0.35) per one hundred dollars (\$100.00) of gross receipts from the occupation during the preceding calendar year.]

[THE DECEMBER 1, 2008 AMENDMENT substituted “mentally handicapped” for “mentally retarded” in (c).]

[THE OCTOBER 7, 2014 AMENDMENT deleted “Pawnbrokers” from list.]

Sec. 14-85. Wholesale merchants.

(a) Every person engaged in the business of a wholesale merchant shall pay for the privilege an annual license tax of five cents (\$0.05) per one hundred dollars (\$100.00) of purchases in the preceding license tax year.

(b) “Wholesaler” or “wholesale merchant” shall mean any person or merchant who sells wares and merchandise for resale by the purchaser, including sales when the goods, wares and merchandise will be incorporated into goods and services for sale, and also includes sales to institutional, commercial and industrial users which because of the quantity, price, or other terms indicate that they are consistent with sales at wholesale.

(c) The effective date of this section will be January 1, 2004.

For state law authority, see VA. CODE ANN. §58.1-3716 (Repl. Vol. 2013).

[THE JUNE 17, 2002 ACT adopted this section, originally effective on January 1, 2005.]

[THE DECEMBER 2, 2002 AMENDMENT changed the effective date of this section from January 1, 2005 to January 1, 2004.]

Sec. 14-86. Public service corporations.

(a) Every public service corporation engaging in the business of providing telephone or telegraph service shall pay for the privilege an annual license tax of one-half of one percent (0.5%) of the gross receipts of such company accruing from sales to the ultimate consumer in the County, excluding gross receipts earned in the Town of Altavista and the Town of Brookneal, Virginia.

(b) In the case of telephone companies, charges for long distance telephone calls shall not be included in gross receipts for purposes of license taxation.

(c) For the purposes of this section, gross receipts shall be ascertained as of the thirty-first day of December of each year and the tax for the current license year shall be based on the gross receipts for the preceding calendar year.

(d) The tax imposed by this section shall be administered and assessed by the Commissioner of Revenue as provided in this article and shall be due and payable to the Treasurer of the County on or before the first day of May of each license year.

(e) Excluded from the provisions of this section are gross receipts attributable to service supplied to the governments of the United States and Virginia, their political subdivisions and agencies, and charges paid by the insertion of coins into coin boxes of pay telephones.

For state law authority, see VA. CODE ANN. §58.1-3731 (Repl. Vol. 2013).

Editor's note: By Chapter 780 (HB 568) of the 2006 Acts of Assembly, effective January 1, 2007, the General Assembly repealed *that portion* of certain local business license taxes (BPOL) imposed on communications companies *in excess of the permitted maximum of 0.5% of gross revenues*. This change does not affect Campbell County's BPOL tax on public service corporations imposed under this section because Campbell County does not exceed the permitted 0.5% percent rate (only a few localities were "grandfathered" under previous legislation, allowing them to apply a higher rate).

[THE JUNE 17, 2002 ACT adopted this section, effective January 1, 2003.]

[THE JULY 2, 2007 AMENDMENT substituted "May" for "March" in (d).]

Sec. 14-87. Effective date.

The provisions of this article shall become effective at 12:01 a.m. on January 1, 2003, unless a different effective date is prescribed for specific provisions in this article, and shall apply to license years beginning on and after January 1, 2003.

[THE JUNE 17, 2002 ACT adopted this article, effective on January 1, 2003.]